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The Solicitors' Journal.

LONDON, MAY 27, 1871.

ON WEDNESDAY, the 24th of May, it curiously happened that the counsel instructed in several cases in the Rolls Court did not appear. When the first of these cases was called and produced no response, the Master of the Rolls ordered it to be struck out, adding that if counsel appeared before the rising of the Court, it might be restored to its place. Another case was then disposed of, and the rest of the paper was then called, but none of the parties were present, and his Lordship struck them all out, and left the Court at about two o'clock, an hour before the time limited for the Court to rise. Subsequently at about a quarter to three the various counsel came down to the Court, and finding the Registrar in attendance, procured the causes that had been struck out to be restored to their places. The next day, shortly after the first of these causes was opened, the Master of the Rolls noticed that it was one which he had struck out the day before, and asked for an explanation of how it had been restored to the paper. On being informed of the fact his Lordship said that as the Registrar and counsel appeared to have understood him to say that the causes might be restored at any time before the hour limited for the rising of the Court, he would allow them to remain, but that the rule was that they could only be restored before the Court actually rose. The reason of the rule was that as the time of the Court was wasted, the parties who caused the loss of time should bear the consequences of their default, and the suitors whose causes were next on the list should be put in the same position as if the parties to the preceding suits had appeared and had their cases decided. If counsel appeared before the Court actually rose, the case could be restored and heard at once, but if the Court had actually risen the subsequent attendance of counsel could not make good the lost time.

MR. WILLIAM BEACH LAWRENCE, best known in this country as the editor of the later editions of "Wheaton's Elements of International Law," a short time since addressed a letter to Governor Hoffman, of New York, on which he deals with the disability of aliens to hold real estates, still subsisting in the state of New York, and with collateral subjects at considerable length. This letter was drawn forth by the failure of a bill introduced into the Legislature of the state of New York to remove the disabilities of aliens. It appears that although Congress alone has the power to decide who are aliens, and to pass Naturalization Acts, the Municipal Legislature of each State determines the position and rights of aliens in such states. In the states of Rhode Island, Maine, Massachusetts, New Jersey, Ohio, Minnesota, Nebraska, Wisconsin, Kansas, Florida, and Louisiana, aliens can take, hold, and alienate land as freely as citizens; and in Pennsylvania they can do so as to a limited quantity and quality of land; but in New York and the other states the law is substantially the same as it was in England before the passing of the Naturalization Acts, 1870. Mr. Lawrence points out how hardly this operates upon the children of a woman, a citizen of the state of New York, but married to an alien, and that, indeed, it is questionable whether, if the husband is a subject of one of the countries with which the United States have recently made Naturalization Treaties, and whose laws regard the marriage of a woman as a mode of naturalization, the wife does not by marriage lose "her capacity as an American citizen to take and hold real property within the state of New York.

A great portion of Mr. Lawrence's letter is taken up by a discussion of the doctrines of double allegiance and expatriation. The American Congress and Executive has long taken a decided line on these two subjects, and since 1859, when Secretary Cass issued his well-known instructions to Mr. Wright, it is no longer optional, according to Mr. Lawrence, to recognise a double allegiance. The principle of Mr. Cass' instructions was embodied in the Convention of 1868, between the United States and the North German Confederation. Shortly afterwards Mr. Thornton, on the instructions of Lord Stanley, communicated to Mr. Seward the regret of her Majesty's Government at not being able to adopt the provisions of this treaty. Then came, in order of time, the Naturalization Commission, which was appointed in May 1868, and reported in February, 1869. This led to the passing of the Naturalization Act, 1870, and thus the way was paved for the Convention of May, 1870, between this country and the United States, which provides that British subjects who have become, or shall become, naturalized in the United States shall (subject to a limitation of a temporary and transitory nature) be held and treated by Great Britian as citizens of the United States, and *vice versa*. All these matters are dealt with by Mr. Lawrence at great length in his letter, but we must point out that Mr. Lawrence speaks of the Convention between this country and the United States in a manner calculated to convey an erroneous impression. After alluding to the Convention between the United States and the North German Confederation, he says that "similar conventions were made with Mexico, July 10th 1868; Belgium, Nov. 16th 1868; and with Great Britain, May 13th 187[illegible]. . . These treaties reciprocally stipulate that the citizens of the one country who are naturalized citizens of the other, and have resided uninterruptedly within the country in which they are naturalized five years, shall be held by the country of which they were citizens to be citizens of the country in which they are naturalized, and shall be treated as such." Although this statement is true of the convention between the United States and the North German Confederation, it is not true of the convention between the United States and England, which contains nothing about five years' residence. A British subject naturalized in the United States is, by the Convention to become a citizen of the United States and to cease to be a British subject at the moment of naturalization, *vice versa*. It is true that by the Naturalization Acts, 1870, five years' antecedent residence in the United Kingdom in service of the Crown are conditions precedent to naturalization in the United Kingdom. But this fact is not even alluded to in the Convention. This inaccuracy, however, detracts very slightly from the merit of the letter, which in all other respects is worthy of the reputation of its author.

The "SIX SHIPS CASE," which at one time looked so unpleasant, and which provoked so much discussion, and so many erroneous arguments on the doctrine of "Angaria," has now been finally disposed of, and it is gratifying to look back on the manner in which this matter has been arranged between the two Governments. If individuals had been concerned, we should have said that the affair had been settled in a very gentlemanly manner on both sides. The Prussian Government having immediately on receiving Earl Granville's message apologised, offered reparation, nothing remained to dis-

pute about, and the only point left was the amount of the compensation, which was afterwards settled by resort to an expert from Lloyds'.

WHEN THE AMERICAN CORRESPONDENT of a contemporary telegraphed home that the Joint High Commission had agreed upon a rule—"that a neutral is responsible for depredations committed upon a friendly power by a vessel fitted out and manned at a neutral port," we pointed out that there must be some mistake in such a report of the product of the Commission; indeed it was impossible that the Commission should have agreed to anything so absurd. The extended text of the draft Treaty now published puts the matter on a better footing. After, in the first five articles, providing the arbitration, article 6 goes on:—

"In deciding the matters submitted to the arbitrator they shall be governed by the following three rules, which are agreed upon by the high contracting parties as rules to be taken as applicable to the case, and by such principles of international law not inconsistent therewith as the arbitrators shall determine to have been applicable to the case?—Rules.—A neutral Government is bound—First.—To use due diligence to prevent the fitting out, arming, or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war against a Power with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adopted, in whole or in part, within such jurisdiction, to warlike use. Secondly. Not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men. Thirdly. To exercise due diligence in its own ports and waters and, as to all persons within its jurisdiction to prevent, any violation of the foregoing obligations and duties. Her Britannic Majesty has commanded her High Commissioners and Plenipotentiaries to declare that her Majesty's Government cannot assent to the foregoing rules as a statement of principles of international law which were in force at the time when the claims mentioned in Article 1 arose; but that her Majesty's Government, in order to evince its desire of strengthening the friendly relations between the two countries and of making satisfactory provision for the future, agrees that, in deciding the questions between the two countries arising out of those claims, the arbitrators should assume that her Majesty's Government had undertaken to act upon the principles set forth in these rules. And the high contracting parties agree to observe these rules as between themselves in future, and to bring them to the knowledge of other maritime Powers and to invite them to accede to them."

The phrases "due diligence" and "reasonable ground," supply what was wanting. It will be, assuming that the treaty will be ratified, for the arbitrators to say how the facts stand these tests, and the Commissioners have not forgotten a point generally lost sight of, upon which we have before now insisted*viz:—the necessity of separating from each other the several cases of the *Alabama*, the *Shenandoah*, the *Florida* and the *Georgia*. Assuming that Great Britain has incurred a liability in the *Alabama case*, it would by no means follow that there was also a liability in the other three cases. If the arbitrators should consider that in any of the cases there has been any failure on the part of this country in exercise of due diligence on reasonable warning, it will then be for them to determine the measure of damages. In this respect the draft treaty leaves the arbitrators unfettered by any instructions, the result of which, of course, must be that the arbitrators are expected to look to the "reasonable consequences" of such derelictions (if any) as they may find; and it by no means follows that the total amount of damage which a Confederate cruiser actually succeeded in inflicting on its enemy's commerce could be fairly set down as the reasonable consequence of her being suffered to escape.

* *Ante* p. 132.

CLASS B. CONTRIBUTORIES.

The great bulk of reported decisions, with which an enormous quantity of expensive litigation has filled our shelves, has gradually cleared away, one after another, a large number of doubts as to the effect of the provisions of the Companies Act, 1862, doubts arising partly indeed from circumstances of complication in the transactions of joint stock enterprise, for which a legislator could not fairly be expected prospectively to provide, but arising also in great part from the remarkably bungling phraseology of the enactment itself. However, by dint of all this mass of interpretation, for which the contributories and creditors of companies have paid, those whose business it is to interpret and administer the provisions of the Act and advise the public thereon, may flatter themselves that on most points its effect is now settled. The Chancery reports for the last few months raise one more very important doubt, in connection with the subdivision of the subject with which we have entitled this paper. "Class B" cases are uncommon in the Chancery Courts, a state of things which may be considered complimentary to the pecuniosity of joint stock shareholders in general.

To pray the ordinary partnership law in aid, for the interpretation of a clause of joint stock legislation, is a dangerous thing to do. You must be able to hit to a hair the point in the joint stock system at which the analogy to the old private system ends and the divergence begins, and to appreciate rightly the amount of the divergence and its *raison dêtre*, or you will run the risk of being led astray.

If a partner retires from a partnership, and his retirement is properly notified, he ceases to be liable for the current transactions of the firm; creditors on contracts made subsequently have no claim on him, unless it can be shown that he has allowed himself to be held out as a person still responsible. As to the previously contracted and existing liabilities, his retirement is *primâ facie* no discontinuance of those. It may be, and very commonly is, the case, that as between himself and the continuing partners there is an agreement that he shall be clear of the existing liabilities; but that arrangement does not affect an existing creditor, though if the creditor were to sue and recover from him it would entitle him to be indemnified by the continuing firm. The creditor may, and sometimes does, abandon his right against the retiring partner, accepting the responsibility of the continuing firm instead of it; whether or not he has done so is a question of fact in each case. These are the broad rules governing the liabilities of past members in ordinary partnerships; we recite them because they have been imported into the decision of a recent case which we shall presently notice, but we do not regard them as supplying any analogy for the decision of questions as to the liability of past members in joint stock companies. In the ordinary partnership cases the question is one of credit, and the main principle upon which such cases are decided is, that of retaining until discharged each man's liability in respect of obligations contracted in part on his credit. The joint stock system lumps the partners together as "the company," it repudiates the mutual relations of the partners by its own uniform rules, provides its own uniform rules as to the ingress and egress of partners, and for the individual action of creditors against the partners it substitutes the uniform machinery of winding up in charge of an official liquidator. As to the liability of past members, the Companies Act, 1862, instead of the old questions of credit, separate questions of fact in each case, subject to the broad principles just now mentioned—lays down certain rigid rules; the retiring shareholder is to be liable to pay (through the official liquidator) the pre-existing debts—if the present members appear unable to discharge them; but this liability is only to endure one year from the date of his retirement, and he is not in limited companies to be called upon to pay more than the amount remaining

unpaid upon his shares. In short, the enactment substitutes for the doctrines of partnership law artificial rules of its own—rules based indeed upon the same principle which animates the old doctrines, and intended to adjust, as nearly as the different state of circumstances will admit, the mutual rights of creditors and shareholders to the mutual rights of creditors and partners—but still rules which are rigid and artificial. This is, no doubt, what Lord Justice Giffard meant when, in *The Accidental Marine Insurance Company's case* (*infra*), he spoke of the *placita* in section 38 of the Companies Act, 1862, as "artificial rules," and Lord Hatherley, in *Brett's case* (*infra*), seems to have misunderstood the Lord Justice's decision.

A person whose shares have been forfeited is in the same position as a person who has transferred his shares; he cannot be placed on the first list of contributories, but he may subsequently be placed on the B list as a past member. *Knight's case*, (15 W. R. 294, L. R. 2 Ch. 326); *Needham's case*, (L. R. 4 Eq. 135;) *Creykes' case* (18 W. R. 103, L. R. 5 Ch. 63); *Helberts' case*, (16 W. R. 1075, L. R. 6 Eq. 509) decides what scarcely needed a decision, that the liability of a past member includes liabilites contracted before he became a member. The decision in *Helbert's case*, on appeal to the House of Lords (L. R. 5, H. L. 28) is important. It was there decided that the official liquidator may select a list of past members and make calls on them, upon reasonable ground for believing that the calls on present members will not realise sufficient to clear the liabilities of the company within a reasonable time; he is not bound to keep the creditors waiting till every possible asset from other sources has been actually realised. It was held also in the same case that the relation of the class B contributories to those of class A is not that of principals and sureties, and therefore that the official liquidator does not by compromising under the power given him by s. 160, calls on A contributories or claims of creditors, release the liability of B shareholders.

In *Re Barned's Banking Company, Andrew's case* (15 W. R. 1030, L. R. 4 Eq. 458), Lord Romilly discussed the question how the contributions of B contributories should be applied, and he thought they should be marshalled by applying them first in payment of the debts subsisting when the respective contributories ceased membership; he appeared to think this would be a simple process; on the contrary it seems to us that it might be very complicated. The case was appealed, and Lord Justice Rolt declined expressing any opinion on that point, thinking it unnecessary to the decision. In *Re Accidental and Marine Insurance Corporation, Ex parte Briton, Medical and General Life Association* (18 W. R. 717, L. R. 5 Ch. 431), the question came directly before Lord Justice Giffard, who decided, without hesitation, that the second *placitum* in section 38 is merely a test of the liability of past members, and does not govern the distribution of proceeds as between creditors—in other words, that a B contributory is not to be liable to pay anything unless there are claims unpaid which were in existence when he ceased membership, but that when his contribution has got into the hands of the official liquidator that official is to distribute it among *all* the creditors; the opposite view to that of the Master of the Rolls. Next comes *Re Blakeley Ordnance Company, Brett's case* (19 W. R. 687) before Lord Hatherley and Lord Justice James. Brett was settled on the B list of contributories to the *Blakeley Ordnance Company* (*Limited*) there being at the date of the winding up unpaid debts, contracted while he was still a member. He afterwards bought up these debts at a considerable discount, and got a release from the creditors, and when the official liquidator made a call upon him resisted the call, on the ground that there was now no debt in respect of which a call on him could be made. The Lord Chancellor and Lord Justice James, affirming the Master of the Rolls, held that it was quite competent for Brett to do what he had done, and allowed his contention. Now, there is nothing in this decision inconsistent with that of Lord Justice Giffard in the *Accidental case*. *Brett's case* rules thus:—The past member may be called, to the extent of his unpaid capital, to pay a certain debt, through the medium of the official liquidator, but if he goes quickly and agrees with the creditor per directum, satisfies him and gets a release of the debt, the debt is at an end, and nothing remains in respect of which he can be called on to pay anything. All that the *Accidental case* rules is, that though the past member cannot be called on as between him and the official liquidator to pay more than the existing debt, yet as between the official liquidator and the outside creditors, the money when paid shall be distributed among all the creditors. One decision rules when the man shall or shall not be made liable to pay; the other directs how his money shall be applied when he does pay. These two results are not inconsistent one with another; and it was, therefore, unnecessary for the Court of Appeal to traverse in *Brett's case* the decision of Lord Justice Giffard in the *Accidental case*. But unfortunately Lord Hatherley in *Brett's case* seems to have quite misunderstood Sir G. M. Giffard's decision; he speaks of "the monstrous injustice of making a man liable to all that has taken place after he has left the firm, and making him liable to persons with whom he has had no dealings whatever, and for the benefit of persons to whom he is under no obligations." But by distributing the past member's money among *all* the creditors, you are not injuring him to the extent of one penny. As long as you do not require him to pay more than the pre-existing debt or the unpaid amount on his shares, it makes no difference to him what you do with the money, whether you give it all to the pre-existing creditor, or spread it over the claims of the whole body of creditors. However, be that as it may, the Lord Chancellor and Lord Justice James have distinctly expressed their disapproval of Lord Justice Giffard's decision. This leaves the point in a very unsatisfactory state, and it is to be wished that the House of Lords might settle it.

Supposing the two rules in the *Accidental case* and *Brett's case* to be both affirmed; there would indeed be this odd consequence, that class B. contributories would be able to offer considerable inducements to the pre-existing creditors to compound with them for their claims: the class B. man would say: "It is true that so far as my shares are unpaid I am liable to pay the official liquidator the whole of your claim, but *you* will not get all the money; you will only get your share of it with the other creditors: will you take (say) half from me, and give a release, that is more that you would get by leaving me to the official liquidator." But, if it is considered that there is anything wrong in that, it is to our thinking, the unavoidable result of the awkward framing of the Act.

Though we have ventured to express our dissent from the observations of the Lord Chancellor in *Brett's case*, endorsed as it is by Lord Justice James in the same case, we certainly coincide with his remarks on the clumsy and ambiguous phraseology of the 38th section of the Act. If it was intended that the sums receivable from the class B. contributories should be handed entire to the pre-existing creditors, it is unfortunate that by attempting to deal with all classes of creditors in one section, the matter should have been left so doubtful. In point of fact, it seems probable that the point was not contemplated when the bill was framed. The 38th section contains nothing directly declaratory on the point. The 133rd section enacts that in a voluntary winding up "the property of the company shall be applied in satisfaction of its liabilities, *pari passu*." It might be argued that this affords an argument in favour of Lord Justice Giffard's view as to the case of a winding-up by the Court; but Lord Justice James, if we rightly understand his remarks, thinks that the phrase "the property of the company" is here used to signify the assets of the company at the date of the winding-up, exclusive of calls. We may suggest, in conclusion, a point for the consideration of those who may be interested in the

topic; viz., whether the principle recently discussed in *Walter* v. *James*, (19 W. R. 472) respecting the effect of the payment of a creditor's claims by a stranger, is at all in *pari materiâ*, to the point actually decided in *Brett's case*. A., as a past member, is on the B. list of a company, there being a debt due to B., a creditor, which was contracted before A. ceased to be a member. Might it, or not, be argued, that as B's debt is owed to him by the company and not by A., a payment made by A. to B. is a payment in the nature of a payment by a stranger, which the company, as between itself and A., is not bound to adopt?

ILLEGAL CONDITIONS.

Our law of conditions must be referred in part to rules framed to meet the peculiarities of the tenure and transfer of land under the feudal system, as understood with us, and partly to maxims which have been drawn through various channels, from time to time, with more or less accuracy, from the civil law. Doubtless some of the maxims of the older system entered as factors into the formation of the rules which we find in Littleton Coke, and the early text writers, and which may, in most cases, be traced through the Year Books up to Bracton. However this may be, the law of conditions was evidently framed, like most of our legal rules of early standing, principally with an aspect to the land, and the distinctive and peculiar characters of the system are attributable to this cause; such parts as have been supplemented, from time to time, to meet cases arising independent of the land and its tenure, and particularly in testamentary dispositions, betray a more direct affinity to the civil law, though sometimes differing materially from that law in practical application.

The most important distinction which has grown up in our law, is that between conditions precedent and subsequent, to which the terms *suspensive and resolutive* of the Roman law have a corresponding significance, though as in the Roman law all conditions were viewed as suspensive in fact either in regard to the first acquisition of the right by one party or its re-acquisition by the other, this distinction did not acquire the same importance in the latter system as in ours. Neither the terms precedent and subsequent or their equivalents are, however, to be found in Littleton's Chapter on conditions.

The nature of the feoffment at common law was such that conditions attached to the estate immediately conferred by it, could not well have been otherwise than *subsequent* because of the transfer of seisin which was worked by the livery; the instance given by Coke (Co. Litt. 206 b) of a condition precedent upon the feoffment at common law, was by way of enlargement of estate, as where a feoffment was made for life on condition to have a fee, on the feoffee performing a condition which performance must, of course, have been precedent to the *increase* of the estate. It is to be, remembered that conditions subsequent might, if taken conversely and negatively be conditions precedent, *e.g.*, a feoffment upon condition that the feoffee paid a sum of money to the feoffor on a certain day, the payment of the money is, *quoad* the feoffee, a condition subsequent by performing which he would not lose the estate, but, *quoad* the feoffor, the *non* payment would be a condition precedent to entitle him to re-enter. Most conditions could, therefore, have been framed in two ways with the same result. Under the doctrine of uses and devises the performance of any condition can be made to precede the vesting of an estate so that until the condition be performed no use shall arise or estate pass under a conditional devise.

Considering conditions in reference to the objects they are designed to attain, the leading rules of our common law are, that conditions which are impossible at the time of making them, or illegal (which *quoad hoc* are juristically impossible), if the condition be precedent, the condition and estate both are void, for an estate can neither commence or increase upon an impossible or unlawful condition; but if the condition be subsequent to the estate the condition only is void and the estate good and absolute. Conditions which at the time of making them are possible but become afterwards impossible by the act of God, become void, and the estates to which they are attached are absolute (Shepard Touch. p. 132,133.) With regard to obligations, the form in which the contract is shaped affects the legal result, because the obligatory part of a bond vests in the obligee a right, somewhat similar to the estate gained by the feoffment, which is afterwards to be displaced by the defeasance or condition. Thus we find that if a condition be impossible at the time of making it, the *condition* would be void, and the obligation remain single and in force. So, if the condition were illegal, if the illegality were only *malum prohibitum*, the *condition* only was void, and the obligation single and good. But if the illegality of the condition consisted in a crime, something which was *malum in se*, then not only the condition but the obligation also,—the whole transaction—was void: a legal right could not be formed under such circumstances (Shepherd, Touch. 371, 372). The tendency in modern times seems to be to consider conditions which are contrary to the policy of the law in the same way as those whose illegality is *malum in se*, and to treat the whole obligation as void (*Mitchell* v. *Reynolds* 1 Peere Wms. 181.)

The identity of legal effect in the case of the condition of the bond being impossible at the time of making it, and of a feoffment in fee with a condition subsequent that is impossible, is expressly stated by Lord Coke (Co. Litt. 206 a. b.), the obligation being single in the one case, and the estate of the feoffee absolute in the other. There is a difference, however, between obligations and feoffments in the case of a condition possible at the time of making it, but *afterwards* becoming impossible by the act of God, for in such case Coke tells us that the obligation is saved, which must mean that the obligor is liberated, for he explains this by saying that the bond or recognisance is a thing in action and executory, whereof no advantage can be taken until there be a default in the obligor (Co. Litt. 206 a). In case of a feoffment, on the contrary, under like circumstances the estate would be absolute (Co. Litt. 206). These distinctions are necessary to be kept in view, for the subject has been sometimes perplexed by a laxity of statement in the treatment of questions arising on this branch of law.

We shall find that in modern times there has been a tendency to approximate more to the doctrines of the civil law, at least in questions not coming under the rules of the common law as directly affecting the land. In these the strict doctrines of our early authorities appear to have lost none of their force (*Egerton* v *Brownlow*, 4 H. L. 1).

In a recent case (*Wilkinson* v. *Wilkinson*, 19 W. R. 558), where a legacy was given to a married woman, the wife of a miller residing at S., and by a codicil the testator directed that this legacy should pass away from the legatee, "should she not cease to reside in S. within eighteen months of testator's death," it was held by Vice-Chancellor Stuart that such a condition tended to cause the wife to live apart from her husband, who could not leave the place of his business, and was therefore void, as contrary to the policy of the law, and the legatee was entitled to the legacy freed from the condition. If the legal effect of such a condition in regard to its tendency be as assumed by the Vice-Chancellor, a point we will not now discuss—see *Dunne* v. *Dunne* (3 W. R. 380, 7 D. G. M. & G. 207),—the decision is certainly sustained by authority.

Here, we observe, the condition was clearly *subsequent*, for it, in terms recognises the vesting of the legacy, and its *passing away*, on non-performance of the condition. But cases are to be found which import that even a condition precedent, if contrary to the policy of the law, may be disregarded, at least in case of testamentary gifts, and the legatees become unconditionally entitled.

In *Wren* v. *Bradley* (2 D. G. & S. 49), testator bequeathed an annuity to his daughter, "in case she should be living apart from her husband and should so continue to do" during the life of testator's widow; with a direction that if, at any time, the annuitant should cohabit with her husband, the annuity should cease. At the date of the will the daughter and her husband were living apart, but before, and at the time of, the testator's death they were reconciled and living together, and so continued to live. The Vice-Chancellor Knight-Bruce was pressed with the rules of the civil law and with the cases of *Brown* v. *Peck* and *Tennant* v. *Braie* (after stated), and with some hesitation he concluded against the validity of the condition and upheld the gift discharged therefrom. The weight of authority and the principles of the civil law, as far as he considered them applicable, seemed to him to render a decision in the wife's favour consistent at once with technical equity and moral justice. The decision was, perhaps, aided in this case by the circumstance of the wife and her husband having been reconciled and cohabiting at the time of testator's death, and the doctrine of implied waiver, as found in *Smith* v. *Cowdery* (2 S. & S. 358), and that class of cases, was urged as having some application, but the decision would probably have been the same without this element. *Brown* v. *Peck* (1 Ed. 140) was a case in which the precedency of the condition was equally clear. The testator devised that if his niece lived with her husband his executors should pay her £2 a-month and no more, but, if she lived from him and with her mother Sparks, then they should allow her £5 per month. The Lord Keeper Henley held the wife entitled to the £5 per month, the condition annexed being both *impossible* at the time of imposing it and *contra bonos mores*—the legacy was simple and pure. *Tennant* v. *Braie* (Toth. 141) was the case "of a devise made to the daughter to pay her a sum of money if she would be divorced from her husband; the gift was made good, though the condition void."

These were all cases of testamentary gifts, as to which there has been a tendency, not always avowed, but clearly perceivable, to give the prescribed benefit to the designated individual, notwithstanding the irreconcilability of such a result with the logical nature of a condition which requires the formation of the legal right to be strictly dependent on the happening or not of the conditioning fact. Notably this tendency prevails where conditions have restricted the freedom of marriage, borrowing largely, or intending so to do, herein, from the rules of the civil law; see *Scott* v. *Tyler* (2 W. & T. L. C. and notes thereto). In some of these cases the judges appear to have been astute to find reasons for upholding the gifts and disregarding the condition (see *Rishton* v. *Cobb* 5 My. & Cr. 145; *Marples* v. *Bainbridge*, 1 Madd. 590; *Bird* v. *Hunsdon*, 2 Swanst. 342).

This difference of treatment in the case of testaments and contracts, in regard to impossible and illegal conditions, was more clearly defined in the Roman law though, as is well known, it was not established without strenuous opposition. The two great schools were divided in opinion. The Proculeians, holding to the strict logical assimilation in both cases, while the Sabinians, of which party Gaius was a sectary, followed the opposite view, though Gaius himself, while remaining true to his sect, admits it was difficult, logically, to justify the opinion of his own party in opposition to that of the *diversæ scolæ auctores* (Gaius Lib. 3 s. 98). However, the opinion of the Sabinians was ultimately formally sanctioned by Justinian, probably, after it had long ceased, in practice, to be regarded as doubtful.

The causes of this difference have been investigated with his usual learning and depth of view by the philosophical jurist of Germany, Savigny. We can only briefly refer to his reasoning. After showing that illegal conditions are necessarily immoral, and as immoral conditions are, for the better class of persons, the same as impossible, they came all to be juristically included under the same category; and after tracing the order of thoughts by which it is probable that such conditions came to be regarded as nullifying the whole transaction, he seeks for the reasons why such a result should have been unhesitatingly admitted in the case of contracts, but should have been denied in the case of testaments by an influential school of jurists whose views on this head, after acquiring the gradual adhesion of opinion, received the formal sanction of the Legislature.

The effect of his reasoning may be thus succinctly stated. In contracts, to separate the condition from the promise would generally be plainly against the intention of the parties. If one promise a sum of money for a crime, and we exclude the commission of the crime from the contract, we undoubtedly change the whole contract, against the intention of the parties, into a pure gift. Not only is this against the will of the parties, but is in itself offensive, as we should be arbitrarily giving a permanent advantage to one who was a participator in the same evil design. In testaments, on the other hand, we find the entire opposite to this. Whoever makes a testament has the undoubted intention of dealing with his property, and every institution of an heir or gift of a legacy falls in with this general intention of a voluntary dealing with property. If then we find a disposition under an immoral condition, there is much probability in the supposition that, while really wishing to carry out the immoral intention, yet apart from this, the testator would have named the same person heir or legatary, because he was engaged in the matter of naming heirs or legataries; but in the case of contracts there is no other motive to a promise supposable, than the promotion of the immoral act. At any rate it is doubtful whether the testator had these thoughts, or whether if he could not reach the immoral end, he would rather omit the legacy entirely; but in such a doubtful case the rule prevails that tends to uphold the last will (*Dig. Lib.* 34 *Tit.* 5 *L.* 24 *de reb dub.*) *Cum in Testamento* ambigue *aut etiam perperam scriptum est; benigne interpretari, et secundum id quod credibile est cogitatum, credendum est.*) Savigny system Bk. ii. s. 124.

Though it would be the shallowest pedantry to affect an absolute similarity between the civil law and our own, on this or any other subject, it is well to fix attention on any elucidation of the grounds and rationality of principles, which both indirectly and directly have have exercised, and continue to exercise, a weighty influence on our own rules of property.

RECENT DECISIONS.

EQUITY.

ARTIFICIAL WATERCOURSE—EASEMENT OF NECESSITY.

Watts v. *Kelson*, L.J., 19 W. R. 388.

Upon the severance of two tenements easements of necessity or, as they are called, continuous easements, pass by implication of law, without any words of grant, unlike easements which are used from time to time only, which do not pass unless the grantor, by appropriate language, shows an intention that they should pass (*Polden* v. *Bastard*, 14 W. R. 198, L. R. 1 Q. B. 156). The question in *Watts* v. *Kelson* was, whether an artificial watercourse made through one tenement, prior to the severance, for the purpose of supplying with water the cattle sheds on the other tenement, was an easement necessary for the enjoyment of the second tenement or not. The Lords Justices, reversing on this point the Master of the Rolls, held that it was, and accordingly, that it passed by implication of law, without express grant, on the severance taking place. The valuable part of the case is the decision that the plaintiff's right to the water was not affected by the fact of his having pulled down the cattle shed and erected cottages in their place. He could no longer use the water for the purpose for which the original owner had laid the pipes; but that did not affect his position, as what passed to him was

the right to have the water flow in the accustomed manner to his premises, and when it arrived at his premises, it was his own property to do as he liked with. The principle is the same as that on which *Wardle* v. *Brocklehurst* (8 W. R. 241, 1 E. & E. 1058), was decided, where the plaintiff had the right to the water as incident to the enjoyment of the farm, and it was held that he might take it through his own farm to a dye-house beyond it. The right which passes under such circumstances is the right to the flow of water along a particular channel, and what difference can it make to the owner of the servient tenement if the water is used for a different purpose?

There is, however, all the difference in the world between an easement and a mere licence. In *Russell* v. *Harford*, (14 W. R. 982), the owner of two adjacent houses had permitted No. 5 to have a water supply from a pipe communicating with a well in No. 6; Vice-Chancellor Kindersley said that this was a mere temporary licence, and not an easement capable of binding as between vendor and purchaser.

COMMON LAW.

Detinue—Statute of Limitation.

Wilkinson v. *Verity*, C.P., 19 W. R. 604.

This case decides a curious point with respect to the Statute of Limitations. The defendant, having in his possession, for the use of the church of which he was incumbent, certain pieces of silver plate, sold them and substituted brass, his idea apparently being that they were the property of the incumbent. More than six years after the sale the churchwardens, discovering what had been done, demanded the silver plate of the defendant, and, on his being unable to produce it, commenced an action of detinue for its recovery. He pleaded the statute. It was clear that the act of sale was a cause of action; it was clear also, that if the sale was the only cause of action, the plaintiffs were out of time. But, relying upon the fact that the defendant had the things as custodian for the parish, and therefore under a contract of bailment, and availing themselves also of the doctrine that an actionable breach of contract may be committed by refusal before the day of performance, but that (the refusal not having been sued upon) a fresh cause of action arises when the time for the performance of the contract comes, and default is made in performing it, the Court held that here a new cause of action arose when the churchwardens demanded the plate of the defendant. The point decided is not perhaps substantially different from that decided in *Reeve* v. *Palmer*, 5 C. B. N. S. 84.

It scarcely needs to be observed that the decision turns not so much upon the form of the action, as upon the relation of the parties. It is true that if the plaintiffs had sued in trover, they would not have recoved without amendment. But on the other hand, if there had been no relation of contract between the parties, the plaintiffs would not have bettered themselves by suing in detinue, and giving the demand and refusal as evidence of the detention; there, as is pointed out by the Court, the first wrongful dealing with the property would have been the only cause of action.

Subscriber—Shareholder.

Burke v. *Lechmere*, Q.B., 19 W. R. 565.

In this case a judgment-creditor of a railway company, incorporated by Act of Parliament, sought to make his judgment available by *scire facias* against a person who had signed the subscription contract for 50 shares, and had been afterwards registered as a shareholder. It was held, in accordance with previous decisions, that the defendant was by virtue of section 8 of the Companies Clauses Consolidation Act, 1845, a shareholder, and, therefore, liable to the extent of the unpaid calls upon the 50 shares subscribed for. The defence was that he had received no notice of allotment; but this defence was plainly inapplicable to the case in question. The numerous decisions which require that, to make a man a shareholder under the Companies Act, 1862 (or under the previous Joint-Stock Companies Act), he must have received notice of allotment, declare nothing but the necessary consequence of the ordinary law of contracts. A man applies for an allotment of shares; whether his offer or application will be accepted or not he cannot tell; that shares should be allotted to him, and that he should receive notice of that allotment, is (as in any other case of contract) necessary to constitute an *agreement* to become a member of the company; for to constitute an agreement there must be two sides, and the parties must be *ad idem*. Even here, however, there are cases where without any notice of allotment persons have been held liable as shareholders, where they have subscribed the memorandum of association, or allowed their names to appear as directors, with the knowledge that the possession of a certain number of shares was a necessary qualification for a director (*Evans' case*, L. R. 2 Ch. 427, *Palmer's case*, I. L. R. 2 Eq. 573).

The present case was a clear one. The general Act says that every person who has subscribed the prescribed sum, or who shall otherwise have become entitled to a share, and whose name shall be entered on the register, shall be a shareholder. The Incorporating Act declared expressly that all persons "who have already subscribed or shall hereafter subscribe to the undertaking" shall constitute the company. As soon then as it is settled that a subscriber is not one who has actually made a payment, but one who has stipulated that he will make a payment (*Thames Tunnel Company* v. *Sheldon*, 6 B. & C. 341), the words of the Acts directly apply; the person who has signed the subscription contract becomes by the entry on the register *ipso facto* a shareholder. Could such a person possibly contend that he had not "become entitled to a share?"

Executor Suing.

Moseley v. *Rendall*, Q.B., 18 W. R. 619.
Abbott v. *Parfitt*, Q.B., 19 W. R. 718.

What is the line which separates the cases where an executor may, and the cases where he may not, maintain an action as executor? With respect to rights of action upon contract, which actually accrued to the testator during his lifetime, the case could never admit of doubt; with respect also to rights of action, which at his death require only the lapse of time to mature them, *debitum in præsenti solvendum in futuro*, and even with respect to such as were only inchoate at his death, and are completed afterwards (as by the performance of his part of the contract) no considerable difficulty seems to arise either in the rule or its application. In all such cases the executor not only may, but (except in the last) must sue as executor, and must submit to the consequent liability of having opposed to his claim a set off due from the testator to the defendant, but cannot be met by any answer which applies to himself personally. But it is with respect to contracts made by the executor himself that the difficulty arises. That he is, in fact, a party to the contract, is a sufficient reason why he should be able to sue in his own name. But if he could sue only in his own name, he would, with respect to every contract made by him in the course of winding up the testator's estate, be liable to be met by defences, for instance set off, applicable to himself personally, which would be inconvenient, both to him, and to those interested in the estate which he is administering, and for whose benefit he in fact sues. He is therefore allowed to sue as executor; and the rule laid down is, that he may so sue wherever the money, if recovered, will be assets. In *Bolingbroke et. ux.* v. *Kerr*, 14 W. R. 637, L. R. 1 Ex. 153, an attempt was made unsuccessfully to extend this rule to a case, where all that appeared was, that the male plaintiff had married the daughter of the deceased (she having taken out administration) and had been carry-

ing on for two years the business of the deceased with funds derived from the estate. *In Moseley et ux.* v. *Rendall* (*ubi. sub.*), this case was cited to show that the plaintiffs could not sue on the wife's title as administratrix *de bonis non* for goods supplied by the original administratrix, within two months of the intestates's decease, out of materials which had formed part of the intestate's estate. It was held however that the action was rightly bought, and, the difference in the facts being so great, there was no difficulty in distinguishing the case of *Bolingbroke* v. *Kerr*. But in the case of *Abbott* v. *Parfitt*, (*ubi. sup.*) where the plaintiffs sued as executors for goods supplied by them in the conduct of the testator's business, which was being carried on under the directions of his will, the same case was again cited, and from the statement imported into the report of that case in the *Law Journal* (35 L. J. Ex. 137), that the business was being carried on "for the benefit of the estate," it appeared to be in point. If that statement, which does not appear in the other reports, were true, the decision would have contravened the rule that the executor may sue as executor wherever the money recovered would be assets; but the Court regarded that statement as an error, and treated the case as one in which the business was being carried on, not for the benefit of the estate, but for the benefit of the intestate's daughter, the co-plaintiff. The rule, therefore, which was thought to be shaken in *Bolingbroke* v. *Kerr*, has been re-established, but what, if any, is the inference to be drawn from that case? The argument there was that the proceeds of the business would be assets in equity; and no doubt upon a creditor's suit, the executor could be compelled to account for all profits made by him directly or indirectly by means of the funds of the estate; that he has or has not carried on the business as executor makes no difference. What the Court therefore decided was, that this mere fact was not enough to bring the case within the rule relied on; and this decision is entirely in conformity with what was said by Blackburn, J., in *Abbott* v. *Parfitt*—"In the present case, it is conceded that the goodwill of the business would have been entirely lost if the operations of the trade had been stopped on the death of the intestate, and to avoid this it was carried on, but for a very short time, on the intestate's premises, and with his tools, and that is strong evidence that the administratrix in so carrying it on did so *in her capacity as personal representative*. It might be right in one case so to carry on business, and wrong in another. All depends upon the time for which the business is carried on, and so the jury would be told." From these observations it appears that the question is, did the executor or administrator carry on the business or make the dealing in question *as such*. If he did he may sue in that character; if he did not he must sue personally.

BANKRUPTCY.

REGISTRATION OF RESOLUTION FOR COMPOSITION—EXAMINATION OF DEBTOR—POWER AND DUTY OF REGISTRAR.

Re Godfrey Davis; *Cornforth* v. *Davis*, Bkcy., 19 W. R. 524.

Ex parte Levy; *Re Varbetian*, Bkcy., 19 W. R. 586.

The method of proceedings under the 126th of the Bankruptcy Act 1869, is doubtless becoming better understood than it was when the Act first came into operation, but it would seem that until the present cases, it had not been decided at what period and in what manner a creditor might take objection to the accounts filed by the debtor. In *Re Varbetian*, a creditor attended at the first meeting, at which a resolution was passed, and objected to the resolution, but it did not appear that he put any questions to the debtor, and having by inadvertence not proved his debt, he was not recorded as dissenting to the resolution. At the second meeting he attended, again objected to the resolution, and also objected to several proofs, but these proofs having been admitted at the first meeting, the chairman did not mark the objection on the proofs. Then the creditor went before the registrar and opposed the registration of the resolutions, and he then demanded that the debtor should be examined on oath. This the registrar refused to do, and he accordingly registered the resolution. This decision was affirmed by the Chief Judge on appeal. In the other case, *Re Davis*, the application to examine the debtor was not made until after the registration of the resolution, and it was likewise refused, on the ground apparently that there was no jurisdiction to make the order unless a *primâ facie* case of fraud had been made out. It is of course unnecessary to detail the circumstances which the Chief Judge considered not to make out a *primâ facie* case of fraud. It is sufficient to say that there were circumstances, which appear considerably suspicious, and that an ordinary creditor without special information as to the debtor's affairs, would seldom be able to state much more. The result, therefore, clearly is, that examination of the debtor cannot be made use of under the present system as a means of detecting fraud, which is merely suspected, though if fraud has been detected, the debtor may afterwards be examined by any creditor who cares to ask for the privilege. Upon the main point noticed by the Chief Judge in his judgment, in *Re Varbetian*, which related to the power of the registrar to order an examination of the debtor on oath on the particular occasion when it was requested, the decision is probably correct. Some propositions however appear to be involved, which are at least questionable, and, at all events, the result shews that the present system is open to objections, which did not even arise under the former system of composition deeds. In *Re Fuchiri*, 15 W. R. 472, L. R. 2 Ch. 368, it was held that a debtor who had executed a composition deed might be examined on behalf of a creditor with a view of impeaching the deed. Under that system, there is no doubt, that an examination of the debtor could have been obtained, if not as a matter of course, at all events, by suggesting on some plausible grounds that fraud might be proved, without making a *primâ facie* case in the sense in which the Chief Judge appears to use the expression. The ground on which it is said that there should be a difference under the present system, is that the creditors have an opportunity of asking questions at the meeting of the debtor. The debtor, however, is not on oath, and the creditors cannot have the assistance of counsel to cross-examine. Probably they may attend the meeting with their solicitor, and of course may be represented by him as their proxy, but even if this precaution is taken, we doubt whether there can ever be any opportunity of an effective cross-examination. It is of course far more common for the debtor to be the only person who has professional assistance at the time of the meeting.

There is another point which seems involved in this decision which is of some importance, and that is that it would appear to be decided that the registrar cannot entertain an objection to any proof unless the objection is marked on the back of it. We find nothing in the Act or rules to authorise this. Rule 271 certainly says that any objection to proof shall be marked thereon and shall be dealt with by the registrar, but this is we apprehend directory, and for the purpose of bringing the objection before the registrar so as to compel him to deal with it. If the chairman improperly omits to mark the objections, and it is nevertheless brought in some other way to the notice of the registrar he ought certainly to entertain it. Further we think the chairman ought to mark an objection made at either of the meetings although the proof in question may have been already admitted. These points however although apparently involved in the decision, are not expressly noticed by the Chief Judge, and it may be that if they arise again, they may be decided in accordance with the view we have taken, and that this case may be explained by saying that the objections made to the proofs even if entertained,

were admittedly not sustainable except by an examination of the debtor which was refused on other grounds.

These cases show the imperative necessity for a creditor, under the law as at present administered, to attend any meeting to which he is summoned, and do his best to cross-examine his debtor, and elicit the real truth as to his affairs. If he does not do so, he will not afterwards have any opportunity of questioning the debtor's accounts or the regularity of the proceedings, unless he can show fraud by *primâ facie* evidence amounting to more than mere suspicion.

REVIEWS.

The Law Magazine and Law Review. No. LXI. New Series. May, 1871. London: Butterworths.
The American Law Review. April, 1871. Boston: Little, Brown, & Co.; London: Stevens & Haynes.

The contributions to the *Law Magazine* this quarter are dryer in matter and less readable in point of style than is generally the case in this periodical. A notice of Lord Brougham's Autobiography is a fair and well-written review. "The Law of Fixtures" is the first instalment of an exhaustive investigation of the historical development and present state of the law on this subject. There are three papers on Judicature; one on "The Reform of the Procedure of the English Courts," in which the need of such a reform is pressed, though not at all too strongly. A paper entitled "The Justices' Procedure Bill" (of the present session) consists of a reprint of the bill, with a very brief *resumé* of the history of its subject matter. There is also a rather inconclusive, though otherwise unobjectionable paper on "The Theory of Appellate Jurisdiction." A paper on Mr. Dudley Field's defence of the New York Codes points out successfully but fairly the failures in Mr. Field's arguments. Under the title "Mettray" is an appeal for pecuniary help to a reformatory *colonie* established near Tours, and now in danger of being lost from the failure of its funds since the troubles of France began. The most noteworthy paper in the number is one on "Legal Reporting and Judicial Legislation." The writer of this, premising that the virtue of judge-made law consists in its surely making known the principles of law by their applications, and that reports should make known this judge-made law as speedily as possible, he argues that for the sake of uniformity and consistency our judicial law-makers should be as few as the exigencies of society and the press of business will allow. He would, therefore, restrict the authoritative effect of reported judgments to appellate decisions, thus reducing (if possible) reports of cases before tribunals of first instance to a level like that of the *Law Reports Weekly Notes*, to be read for private instruction but not to be citable. It will at once occur to the reader that the great proportion of practice points necessarily come before the primary courts, and that it is most important to preserve some authority on these points. The writer in the *Law Magazine* would provide for this by "a sort of standing commission, charged to watch the practice and revise it authoritatively at short intervals." He concludes—"it only remains to show that it would be possible by any enactment to prevent the counsel and judges from citing and relying on the decisions of the lower courts," and admits that there are difficulties in the way of that, which it would be hard to gainsay. This paper is well worth reading; the number strikes us on the whole as below the average in strength and originality.

The *American Law Review*, like most of the American law serials, occupies but a small proportion of its space with original articles. In the present number a very lengthy paper is devoted to an advocacy of an American view of the North Eastern Fisheries question. An article on "Expert Testimony" concludes a paper on the subject begun last quarter. If the reader should not be of opinion that the author makes out his case for the institution of a species of "*expert amici curiæ*," he will at least have found the paper entertaining and instructive. The remaining article is an account of the recently instituted Bar Association of New York, designed as a means of reviving the lost honour of the New York bench and lawyer profession, and the abuses it aims at correcting. In answer to the question why the notorious judges, the "Erie" judges for instance, are not impeached by the association, the writer seems to say that the new movement is not strong enough yet—impeachment always has a political character, and at present "the worst reprobate that could disgrace the bench would be screened from punishment by the same constituency that elected him. The editors of the *American Law Review*, however, in their "summary of events," seem to think that the Bar Association is not doing enough to take the bull by the horns; it appears that very serious charges have been brought, and publicly repeated, against Mr. Dudley Field, and it is remarked that the Bar Association, which has now a charter, ought to take the matter up and either expel or acquit Mr. Field.

COURTS.

COURTS OF BANKRUPTCY.

LINCOLN'S-INN FIELDS.

Feb. 2, 8; Mar. 8; April 13; May 10.—*Ex parte Phillips, re Bingham.*

Evidence of proper execution of inspectorship deed.

In default of validity as a properly executed deed under the Bankruptcy Act, 1869.

Held, that the provisions of the deed were not such as would be carried into effect by a court of equity, and consequently that the deed had entirely fallen through.

This case came before the Court on an application by the inspectors under a deed of inspectorship executed by John Bingham in 1866, claiming to be entitled as against the assignee under the subsequent bankruptcy of Bingham in 1867 to a sum of money in the hands of the assignee, representing the proceeds of certain furniture and effects belonging to the debtor at the date of his deed.

By deed of inspectorship dated the 31st of July, 1866, and made between John Bingham (the debtor), of the first part, J. Cooper and T. H. Wintle (the inspectors) of the second part, and the creditors of Bingham, of the third part, Bingham covenanted to deliver accounts to and to wind up his estate under the discretion of the inspectors; and he covenanted that the said estate should be administered in accordance with the principles, rules, and practice of the then English Bankrupt Law or as near thereto as circumstances would permit, having regard to the terms of the deed, that the debtor would, if the inspectors should by writing so require, effectually convey and assign all his estate and effects remaining outstanding to the inspectors in trust to be forthwith realised and administered and divided according to the law of bankruptcy among the creditors of the debtor, according to the amount of the respective debts which should then remain unpaid.

The deed was executed by the debtor and by the inspectors and purported to be executed or assented to by a sufficient majority in number and value of the creditors of the debtor so as to be a valid deed under the Bankruptcy Act of 1861; and on the 28th of August, 1866, it was duly registered.

On the 23rd of February, 1867, the inspectors proceeded to serve a notice on the debtor requiring him to assign his outstanding estate and effects, but this service was disputed.

The principal part of the estate of the debtor consisted of furniture; and on the 6th of June, 1867, Charles Furber, acting under the powers of an assignment made to him by way of mortgage on the 11th of March, 1867, by the debtor, sold this furniture.

On the 6th of November, 1867, the debtor was adjudicated bankrupt, and T. R. Schweitzer was appointed assignee of the bankruptcy.

Notice of the inspectorship deed had been given by the inspectors to Furber, but nothing else appeared to have been done under that deed until the 18th of March, 1868, when W. P. Phillips and G. Phillips were appointed inspectors in the place of Cooper and Wintle; and in May, 1868, the new inspectors filed a bill against Furber and Schweitzer and another mortgagee of Bingham, claiming the proceeds of the sale of the furniture after allowing Furber to deduct what was due to him. Schweitzer in his answer said that he was informed and believed that the inspectorship deed was not executed or assented to by a sufficient majority in number and value of the creditors, and was advised that it was invalid and an act of bankruptcy; and he claimed the proceeds of the sale of the furniture as assignee.

The cause was heard before the Master of the Rolls who

on the 11th of February, 1870 (*vide* report, 18 W. R. 479), dismissed the bill with costs, but upon appeal (18 W. R. 985, L. R. 5 Ch. 746), the Lord Chancellor (Hatherley) varied the order by directing that the sum paid into Court by Furber, and an additional sum to be paid by him, should be paid to Schweitzer, he undertaking to deal with it as the Court should direct, without prejudice to any application to be made by the plaintiffs to the Court of Bankruptcy within a month.

The inspectors in support of their claim produced the original affidavit of the debtor with the list of creditors annexed delivered to the Chief Registrar at the time of registration, also the certificate of registration itself endorsed on the deed; and they produced certain papers purporting to be assents to the deed given by certain persons whose names appeared to be subscribed, but no evidence was given to show that these persons were identical with those whose names appeared in the list of creditors.

The assignee in support of his claim relied upon certain examinations of creditors taken in 1867 under the deed at the instance of the present inspectors who were two of the largest creditors. He also relied on certain examinations of the bankrupt recently taken in his bankruptcy, which showed that at the date of the deed there were some eighteen or twenty creditors more than those which the bankrupt had sworn to in 1866, as forming the correct list—the effect of the omission being to reduce the number and value of the debts of assenting creditors below the necessary majority. The bankrupt was brought up by warrant, but was not cross-examined.

Bagley and *Robson* for the inspectors.—By the terms of the deed the debtor was bound to assign his outstanding estate when required to do so, and it was asked that the proceeds should be paid over. The inspectors were assignees in point of fact and entitled to distribute the assets. The debtor having obtained all the benefit of the deed could not now dispute it. Even if the deed could be impeached under section 192, it would still be good under section 194, and upon the notice being served the property vested in the inspectors. But the assignees could not impeach it unless they showed fraud; and registration was primâ facie evidence that all the requisitions of the Act of Parliament had been complied with. An assignment in equity could not operate as an act of bankruptcy.

Cracknall and *Brough*, for the assignee.—The deed must be treated as a deed intended to operate under section 192, and requiring all the conditions imposed by that section to be complied with. Registration was primâ facie evidence that the necessary majority of creditors had assented, but nothing more, and when the deed was impeached the inspectors were bound to prove it. But the assignee was prepared to prove affirmatively that those conditions had not been complied with; and if it were shown that the deed was invalid under section 192, the title of the inspectors wholly failed.

W. W. Cooper, for T. H. Smith, a mortgagee.

Bagley, in reply.

The following authorities were cited: *Ex parte Atkinson, Re Brooksbank*, 18 W. R. 777, L. R. 9 Eq. 736; *Ex parte Rawlings*, 11 W. R. 157, 1 De G. J. & S. 225; *Waddington* v. *Roberts*, 16 W. R. 1040, L. R. 3 Q. B. 579; *Bramble* v. *Moss*, 16 W. R. 649, L. R 3 C. P. 458; *Beddall* v. *King*, 17 W. R. 614, L. R. 4 C. P. 549; *Symons* v. *George*, 12 W. R. 827, and 13 W. R. 922, 3 Hurl & C. 996; *Johnson* v. *Osenton*, 17 W. R. 675, L. R. 4 Exch. 107; *Allen* v. *Bonnet*, 18 W. R. 874, L. R. 5 Ch. 577; *Mercer* v. *Peterson*, 15 W. R. 1179, L. R. 2 Exch. 304; *Foxley* v. *Nurse*, 16 W. R. 831, L. R. 3 Ch. 515; *Pickard* v. *Sears*, 6 Ad. & El. 469; *Gregg* v. *Wells*, 10 Ad. & El. 90; *Hobson* v. *Jones*, 18 W. R. 477; *Re Symons*, 17 W. R. 1040; *Tucker* v. *Hernaman*, 1 W. R. 498, 4 De G. McN. & G. 395; *Jones* v. *Harber*, 19 W. R. 248; *Ex parte Hannington, Re Stafford*, 18 W. R. 959; *Riches* v. *Owen*, 16 W. R. 1072, L. R. 3 Ch. 356; Broom's Maxims—"*Omnia præ præsumuntur rite esse acta*," and cases cited under that head; *General Furnishing Company* v. *Venn*, 2 Exch. 153; *Gough* v. *Everard*, 2 Exch. 1.

Cur. adv. vult.

May 10th, Mr. Registrar MURRAY.—In this case I am of opinion that while on the one hand the inspectors desiring to rely on registration under section 192 are bound to prove their title, it is on the other hand clearly competent for the assignees to impeach the validity of that registration. Numerous authorities have been cited on the question as to the necessity of proof, or perhaps I should say the extent of proof in these cases, and I entertain no doubt as to the effect of those decisions. [His Honour then noticed specifically the authorities cited upon that point.] What extent of proof the Court might require, whether strict evidence of the handwriting of each alleged assenting party, it is not necessary now to consider, for here there is not even any primâ facie evidence given that the parties whose names are attached to these papers were the same parties as those whose names appear in the list of creditors. There ought to have been no difficulty in procuring such evidence if it existed, and in such a case as this, where, to use the words of the Lord Chancellor, "there is very good ground for doubting the *bona fides* of the deed," it was especially necessary, and I think that the inspectors have failed to show affirmatively that the deed has been duly registered under section 192.

Having referred to the evidence upon this subject, his Honour proceeded:—Mr. Bagley has urged that the Court ought to respect the debtor's evidence on the ground that he could not be heard against his own deed, but the examinations on which the assignee relied have been taken on oath before a Court of competent authority; and the debtor has been present on every occasion and not cross-examined.

Again, it may be said that at this distance of time it would not be competent for the dissentient creditors to dispute the validity of the deed as not having been duly registered under section 192, and that, being therefore binding on them, the Court would have no difficulty in carrying out the trusts. This would be a legitimate argument if nothing had taken place in the interval. But bankruptcy has supervened, and not only so, but at the time of the adjudication there was actually pending in this Court an application by the now inspectors for leave to issue execution on the ground of its not being a valid deed under that section, and that application only fell to the ground by reason of that adjudication. I am of opinion that this deed cannot be supported as a valid deed under section 192 and it therefore becomes necessary to consider the arguments which have been urged in support of its being a good deed at common law, and of the trusts being capable of execution by this Court.

Now in *Symons* v. *George* it is to be observed that there was an actual immediate assignment of all the debtor's property to trustees upon trust for distribution among the creditors, by virtue of which assignment the trustees were entitled to seize, and this was also the case in the next case of *Johnson* v. *Osenton*. The effect of the deed in these two cases was to divest the grantor of, and to vest in the grantee, all the property in the goods comprised in it by virtue of its delivery, that is, the delivery of the deed, and bearing this in mind, the decisions in these cases are perfectly clear and intelligible. *Ex parte Atkinson* v. *Brooksbank* was again a case of a deed of assignment by which the debtor conveyed and assigned all his estate to the respondent to be distributed among all his creditors according to the law of bankruptcy, and a release by creditors. Upon reading the elaborate judgment of the Chief Judge in that case the decision amounts to this, that with respect to deeds registered under the 194th section the jurisdiction of the Court of Bankruptcy at once attaches, and that the creditors are already entitled to invoke the aid of that jurisdiction for the purposes of enforcing its provisions and of giving it full effect by such means as are within the administration of the Court, and therefore his Lordship dismissed the appeal, thereby deciding that the appellant was bound to submit herself to examination under the deed. But it is clear that although coming within the terms of the 197th section for some purposes, a deed registered under the 194th section does not carry with it all the rights and privileges conferred by section 197. This authority is only of importance on the present application as showing that in the case of a deed registered under section 194, this Court will assist in carrying out the trusts so far as they are capable of execution. The cases of *Symons* v. *George* and *Jones* v. *Osenton* are both authorities for the further proposition that the fact of a deed having been made with the intention that it should operate under the 192nd section is no bar to its being a good deed at common law where there has been an absolute assignment made by the deed and the trusts are not impossible of execution. If, therefore, the inspectors are able to show that the deed in

this case possesses both these ingredients, they would be entitled to succeed, subject, of course, to the consideration of the other objections which have been raised by the assignee under the bankruptcy. [His Honour then referred to the terms of the deed]. Now there is no immediate assignment; nothing, therefore, in the shape of property upon which the trusts for distribution declared by the deed could immediately fasten. In that respect it is a mere covenant and nothing more, and one which up to this moment has never been performed. As regards a covenant to assign being equivalent in equity to actual assignment and ownership, that is a proposition which is familiar enough, but it means nothing more than this, that in a proper case the covenantee may invoke the assistance of a court of equity to give him actual possession of the subject-matter of the covenant, or compel the covenantor to take such steps as will give the covenantee a legal title and enable him to obtain possession. Many illustrations might be given of this proposition. One peculiarly apposite is to be found in *Riches* v. *Owen*, one of the cases cited, and on which the inspectors rely. In that case the deed was very similar in its provisions to the one now before the Court, and contained a similar covenant to assign; and it was to protect the property comprised in that covenant that the inspectors successfully invoked the aid of a court of equity to appoint a receiver. But that deed had been duly registered under section 192, and was therefore a valid binding deed on all the creditors. But *Riches* v. *Owen* is no authority for the interference of a court of equity where the deed has not been registered (or duly registered) under section 192, and is therefore not a deed binding upon any creditor who has not executed or assented to it. Would the Court interfere in such a case, and if so to what extent? This really appears to be the whole point in the case. Could the inspectors, on default made by the debtor under his covenant, have applied to a court of equity to assist them, and what relief could they have asked? That the debtor should be decreed to execute an assignment pursuant to his covenant and, as ancillary to that, a receiver in the meantime and an injunction against the debtor to restrain him from making away with his property. As regards the injunction, the Court might possibly find little difficulty in granting it. But as regards the appointment of a receiver, the case would be one of extreme difficulty. The interference of the Court by appointing a receiver in a case of mere covenant would, of course, depend upon whether the covenant was primâ facie one which a Court of Equity would enforce. No case has been cited in which such a covenant in an inspectorship deed has ever been ordered to be specifically performed, nor am I aware of any such case. The mere covenant or agreement to assign is clearly not an act of bankruptcy. The effect of an order enforcing such a covenant would, in fact, be to compel the debtor to commit an act of bankruptcy of which any one of the dissentient creditors might at once take advantage, and that on a covenant contained in a deed by the very nature and provisions of which it is clear that the debtor desired and intended to avoid bankruptcy. As regards the creditors, it would at once alter the entire relative positions existing between themselves and the debtor by enabling not only those who were creditors dissenting at the date of the deed, but any creditor who had become so since, to procure him to be adjudicated bankrupt and thus come in and share in the distribution of his estate. The conclusion to which I have arrived is that the deed is one which as regards the property of the debtor rests upon mere contract, and has in fact failed of its purpose and fallen through. I will only refer to the observations of two learned judges—the Master of the Rolls, and the Chief Judge—as to the nature of these inspectorship deeds and which seem to me to go far to support the views on which my conclusion is based. [His Honour then referred to *Phillips* v. *Furber*, and *Re Symons*, *ubi sup.*]

I am of opinion, therefore, that the case of the inspectors has failed, and that the moneys in the hands of the assignee must be held to form part of the estate to be administered in the bankruptcy. The costs will come out of the estate, but there will be no costs to T. H. Smith. I have not adverted to other points which have been argued, these being points which, upon the conclusion I have come to, do not now arise.

Solicitors for the inspectors, *C. & C. R. Cuff.*
Solicitors for other parties, *Ingle & Co.*
Solicitor for the assignee, *J. R Chidley.*

COUNTY COURTS.

BLOOMSBURY.

(Before G. L. RUSSELL, Esq., Judge.)

April 27; May 5.—*Spencer* v. *Scott.*

Bills of sale Act (17 & 18 *Vict. c.* 36)—*Post nuptial settlement.*

This was an interpleader issue, and the facts of the case were as follows: An action was originally brought by the plaintiff against the defendant, a married woman, to recover the sum of £11 8s. 6d. Defendant allowed judgment to go by default. The goods upon her premises were subsequently seized by *fi fa*, and they were thereupon claimed by the trustees, under a post nuptial settlement made between the defendant's husband, the defendant and the trustees, whereby the defendant's husband covenanted to pay to the trustees an annuity of £400 for her sole and separate use with restraint on anticipation; the settlement also comprised the furniture which was the subject of this issue. It appeared that the house where the seizure took place is the residence of Mr. and Mrs. Scott, in this sense only, that the defendant resides there and keeps up the establishment, and her husband is now dwelling at his country seat, and has, in fact, never lived in his town house. It also appeared that previously to the execution the furniture had been removed, by order of the defendant's husband, to the Pantechnicon, but on the request of the trustees it had been conveyed to the defendant's present residence. The settlement was never registered under the Bills of Sale Act. By section 1 of that statute it is enacted, *inter alia*, that unless a bill of sale be registered within twenty-one days after the making thereof, it shall be null and void as against execution creditors and others, so far as regards the property of any personal chattels comprised in such bill of sale which at or after such execution, &c., shall be in the possession or apparent possession of the person making such bill of sale, or of any person against whom the process shall have issued under or in the execution of which such bill of sale shall have been made or given as the case may be.

Harmsworth for the claimant, having opened the case and stated the foregoing facts,

Williams for the execution creditor, contended that the settlement was null and void, as it was not registered in accordance with the Bills of Sale Act; he cited *Fowler* v. *Foster*, 28 L. J. Q. B. 210, where it was held, that a post nuptial settlement is not excepted from the operation of the statute, and should be filed as required by that Act.

Harmsworth contended that *Fowler* v. *Foster* did not apply to the present case. *Fowler* v. *Foster* established that post nuptial settlements of goods and chattels *merely*, required registration, this was not only a settlement of the furniture, but also of an annuity, the object of the Legislature was to prevent fraud, whereas here the *bonâ fide* nature of the settlement was apparent. The maker of the settlement had been and was at the present time perfectly solvent. The 1st section of the the Act showed clearly that registration was only necessary where the process was issued against the maker of the bill of sale, and did not apply as in the present case, where it is issued against a third party. The fact that the defendant was a married lady was for the purpose of the argument unimportant, the execution creditor might have commenced proceedings against Mr. Scott, but had chosen to rely upon the defendant's separate estate, and his remedy was in equity. The evidence, as regards the deposit at, and subsequent removal from the Pantechnicon, by the trustees, showed that the trustees had something more than that formal possession referred to in the interpretation clauses of the Act of Parliament, and as a fact these goods were not either in the real or apparent possession of the maker of settlement, but were *bona fide* the property of the trustees: under these circumstances he submitted that it was clear that the registration of the deed was unnecessary. He cited *Gough* v. *Everard*, 11 W. R. 702, cited in *Re Vining*, 18 W. R. 450, as to the "apparent possession," and *Simmons* v. *Edwards*, 16 M. & W. 838.

Williams, in reply, submitted that the latter part of section 1 of the Act made registration of a bill of sale necessary, although process had not issued against the maker, he cited the following words: "or of any person against whom the process shall have been issued under or in the execution of which such bill of sale shall have been made or given as the case may be."

Judgment reserved.

May 5.—Mr. RUSSELL.—This is an interpleader summons relating to the repairs of pictures and furniture for Mrs. Scott, and she not paying the bill of £9 is sued. She was, it appears, a married lady, but she did not plead her coverture, and the plaintiff recovered judgment against her. He issued execution thereunder, and these pictures and furniture, amongst others were seized. The present claimants made their claim, the money was paid into court, and the pictures and furniture were then released. The claimants are the trustees under a deed of settlement, by which Mr. Scott, the husband, assigned to them these things amongst other furniture upon trust for Mrs. Scott, that they should be for her life and for her survivor absolutely, and agreed to pay an annual sum for her expenses, &c. They were together for some time, I know not when, nor how long, after the settlement, but they then separated. Mr. Scott broke up the establishment, and sent the furniture to the Pantechnicon, and gave notice of the removal.

Under the authority of the 18th November, 1870, the trustees obtained the goods and put them into another house occupied by the lady. Under these circumstances the trustees allege that the chattels are theirs, and not the lady's. The answer of the execution creditor is that the post nuptial settlement is a bill of sale, and requires registration, and as it has never been registered is void. Mr. Williams referred me to *Fowler* v. *Foster*, 28 L. J. Q. B. 210, where it was decided that a post nuptial settlement is not within the exception of the Bills of Sale Act, and that such a document as this required registration. But, as between the parties now before me, that decision and the non-registration of this deed does not avail with the plaintiff. In *Fowler* v. *Foster* the judgment was against the husband, the execution was against him, and it was the husband by whom the bill of sale was executed for the benefit of his wife and children. But here the judgment is not, nor is the execution against the husband, and the bill of sale is void only against an execution by the vendor of goods to the husband. The words of the Act are: "The person by whom the bill of sale shall be made," and as against this claim and this execution the deed is valid and proper to pass.

The case, however, is one of great hardship. The money and labour of the plaintiff have been expended on the very articles which have been seized, and have added greatly to their value, and I shall, therefore, give no costs against the execution creditor, the claimants must look to the lady for their costs, for whom they are trustees.

Judgment for the claimant, with costs.

Attorney for the claimant, *J. M. Mason.*

BIRMINGHAM.

(Before Mr. R. G. WELFORD, Judge.)

May 17.—*East* v. *Hundy.*

This was an action brought by Mr. Alfred East, solicitor, against James Hundy, timber merchant, to recover £15 for professional services.

Mr. Duke for the plaintiff.

Mr. Rowlands for the defendant.

It appeared that a short while ago the defendant wished to sue a man named Bates, and placed the matter in the plaintiff's hands. Plaintiff commenced proceedings in a superior court, but upon the day before the trial defendant refused to find money to go on, as he meant the action to have been taken in the county court. The defence was that plaintiff was only authorised to take proceedings in the county court. This, however, was not made out, and, the plaintiff's charges having been shown to be reasonable, a verdict was given for the amount claimed.

GENERAL CORRESPONDENCE.

PAPER PRACTICE.

Sir,—One of your daily contemporaries lately published the following:—A correspondent sends the following account of a strange new practice in Chancery: "My grievance is that I have been 'weighed in the balance and found wanting.' Somebody made me (a solicitor myself) defendant in a Chancery suit, and I had to put in an answer. This precious document was settled by counsel, engrossed by a law stationer, sworn to by myself, and then sent for filing. The officials noted the stamps, counted the words, counted again the lines on the paper, then actually measured with a portion of a yard measure the size of the paper, the width of the margin. All turned out right; and then they actually weighed my answer, as if it were sugar! and I was found to be a drachm short; one ounce one drachm, and not one ounce two drachms. Therefore my answer is returned to me unfiled. Thus I am in contempt because my stationer, like other tradesmen, has given me light weight. I cannot apply for protection to a judge because it is 'vacation' (no one knows why Chancery great men have vacations when no one else does), and I am at the mercy of the other side to lock me up when and as they choose, for want of weight. It is needless to say that no one read the document. Sufficiency is judged of by size, weight, and measure."

This seems to disclose an unfortunate state of the Chancery practice for us: but surely there must be a *per contra*. I should like very much to know the rights of the matter, for the point seems to be one of great importance to solicitors, especially where concerned, as in family matters so often happens, as principals in Chancery litigation.

ARGAL.

[If "Argal" will consult the Chancery Orders, in whatever may be the practice book he uses, he will find that the "strange practice" referred to is not new. It will hardly be disputed that documents intended for filing should be on good paper. The requirement that the substance employed should be paper weighing "19 lb. per mill ream," is as old as the order of March 5, 1860, and see also the order of April 29, 1869. No doubt the mysterious phraseology used is well understood by printers and law stationers, and a precise and sharp description seems the best definition that could be used; it must be always easy for law stationers to comply with it, while a vague one might give rise to much confusion, and perhaps hardship, near the debateable medium. A decision of Lord Romilly's on the subject was reported as far back as 1862 (*Harvey* v. *Bradley*, 10 W. R. 784), and a few months ago the Clerks of records and writs issued a notice,* calling attention to the frequent practice of using paper "of much less weight and inferior quality," and notifying that after the 1st of January, 1871, no document would be filed if printed or written on paper deficient in any particular. Very shortly afterwards Vice-Chancellor Bacon observed, upon a special application for indulgence made before him, that "there could be no difficulty in complying with the order, and there was no good reason why it should be departed from,' and refused the application.† The Lord Chancellor, however, on the matter being brought before him, said he thought it would be enough if the quality of the paper was judged by eye, without weighing, and allowed the document to be filed (*Calthorpe* v. *Rummens*, 19 W. R. 337).—ED. *S. J.*]

PARLIAMENT AND LEGISLATION.

HOUSE OF LORDS.

May 23.—"*The Six Ships.*"—Earl Stanhope asked the Foreign Secretary what progress had been made in the settlement of the claims for compensation to the English colliers sunk in the Seine.—Earl Granville said that on the 1st of February Count Bernstorff communicated to him a despatch from Count Bismarck, enclosing a report of the military authorities of Rouen. That report shewed that the seizure was instituted for military reasons, and that there was no reason, as had been at first stated, for accusing the authorities of ill-treating the crew. The Board of Trade about that time made a careful examination of the claims, with the concurrence of Count Bernstorff, and they had the assistance of the able Surveyor of Lloyd's. They reported on the 15th of April, assessing the compensation which ought to be awarded at £7,073. This was communicated to Count Bernstorff, who, on the 9th of May, stated his entire concurrence with it, and on Friday last he handed over a cheque for the amount. Count Bernstorff, on paying the cheque, expressed the thanks of his Government for the trouble we had taken in investigating the claims, which would have been rather an invidious task had they themselves undertaken it. Earl Granville had the pleasure of expressing the sense of her Majesty's Government of the straightforward and friendly manner shown by the German Government, and of the promptitude with which the claim had been settled. He had no doubt Earl Stanhope would agree with him in thinking that the busi-

* *Ante*, p. 145. † *Ante*, p. 197.

ness of the Foreign Office would be materially lightened if all claims were settled in so satisfactory and prompt a manner.

HOUSE OF COMMONS.

May 22.—The *Game Laws.*—The orders for the second reading of the three Game Laws Bills were postponed, Mr. Bruce stating that he intended, on Thursday, the 5th of June, to move for the appointment of a Select Committee on the subject.

The *House of Commons* (*Witnesses*) *Bill* was read a second time.

The *Marriage Law* (*Ireland*) *Amendment Bill* was read a third time and passed.

May 25.—The *Ecclesiastical Dilapidations* and *Sequestration Bills* were referred to the Committee on the *Benefices Regulation Bill.*

FOREIGN TRIBUNALS & JURISPRUDENCE.

AMERICA.

In a California appeal, *The Ship Sapphire, etc., G. C. Truefant and J. R. Tibbetts, claimants,* v. *Napoleon III., Emperor of the French, appellant*, the United States Supreme Court hold that the suit, which was one for damages, on account of a collision with a French man-of-war *Euryale*, is not to be considered as having abated, by reason of the deposition of the Emperor Napoleon. The Court say :—"The question is, whether the suit has become abated by the recent deposition of the Emperor Napoleon. We think it has not. The reigning sovereign represents the national sovereignty, and that sovereignty is continuous and perpetual, residing in the proper successors of the sovereign for the time being. Napoleon was the owner of the *Euryale*, not as an individual, but as sovereign of France. This is substantially averred in the libel. On his deposition the sovereignty does not change, but merely the person or persons in whom it resides. The foreign state is the true and real owner of its public vessels of war. The reigning Emperor, or National Assembly, or other actual person or party in power, is but the agent and representative of the national sovereignty. A change in such representative works no change in the national sovereignty or its rights. The next successor recognised by our government is competent to carry on a suit already commenced and receive the fruits of it. A deed to or treaty with a sovereign as such enures to his successors in the government of the country. If a substitution of names is necessary or proper it is a formal matter, and can be made by the court under its general power to preserve due symmetry in its forms of proceeding. No allegation has been made that any change in the real and substantial ownership of the *Euryale* has occurred by the recent devolution of the sovereign owner. The vessel has always belonged and still belongs to the French nation."

OBITUARY.

MR. C. METCALFE, J.P.

Mr. Charles Metcalfe, J.P. of Inglethorpe-hall, Norfolk, formerly a solicitor of Wisbeach, died at his residence, on the 9th of May at the age of 75 years. He was the eldest son of the late Charles Metcalfe, Esq., J.P., of Wisbeach, by Elizabeth, daughter of William Skrimshire, Esq., a Deputy Lieutenant of the same place, and was born on the 9th of November, 1796. He was admitted in 1818, and practised at Wisbeach for about half a century. He took an active part in the public affairs of that town, and on the first election under the Municipal Act, 1836, he was returned as a member of the Town Council for the North Ward. Three years afterwards he was elected an alderman, and served the office of mayor in 1843. His connection with the Town Council ceased in 1858, soon after his appointment to the office of Clerk of the Peace for the Isle of Ely, which had become vacant by the death of Hugh Jackson, Esq. Mr. Metcalfe had also been Registrar of the old Court of Requests, Wisbeach, and was re-appointed on the formation of the present County Court districts. About four years ago, he resigned these appointments, and retired from practice, when he was placed on the Commission of the Peace for the Isle of Ely. He was succeeded as a Clerk of the Peace by his eldest son, Mr. Frederick Morehouse Metcalfe, solicitor; and as registrar of the Wisbeach County Court by another son, Mr. Frank Metcalfe, also a solicitor. The deceased gentlemen, who was lord of the manors of Walsoken, Metcalfe, and Inglethorpe in Emneth, succeeded to the family estates on the death of his father in 1853. He was married in 1826, to Mary, daughter of Morehouse Metcalfe, Esq., of Gainsborough, by which lady he leaves a numerous family, two of his sons being clergymen of the Church of England—the Rev. William Metcalfe, and the Rev. George M. Metcalfe—and two solicitors, as already mentioned.

MR. J. BROTHERTON.

Mr. James Brotherton, Barrister-at-Law, and Receiver-General of Her Majesty's Inland Revenue, died at his residence at Highgate, on the 17th of May, after a short illness. Mr. Brotherton, who was in his 56th year, was the only son of the late Joseph Brotherton, Esq., a cotton manufacturer, and M.P. for Salford, from 1832 till his death in 1856, and well known for the pertinacity and earnestness with which he endeavoured to introduce an "early closing" movement into the House of Commons. Mr. James Brotherton was called to the bar at the Middle Temple on the 11th of June, 1847, and was formerly a member of the Northern Circuit, practising also at the Manchester sessions. About the year 1851, however, he was appointed by Lord John Russell, then Prime Minister, to the post of Receiver-General of Inland Revenue, in acknowledgment both of his own merits and those of his father. He married the eldest daughter of Lieutenant Roberts, R.N., of Chesterfield, and leaves a numerous family. The Brothertons were settled in Derbyshire previous to the removal of the last generation to the neighbourhood of Manchester.

MR. J. G. PEARSE.

Mr. John Gibberd Pearse, formerly a solicitor of Southmolton, Devonshire, died at that place on the 14th of May, at an advanced age. He was admitted in Trinity Term, 1813, and was for many years town-clerk of the borough, clerk to the county and borough magistrates, and clerk to the Lord-Lieutenant of the county of Devon, Mr. Pearse was formerly in partnership with Mr. Robert J. Crosse, but does not appear to have renewed his certificate during the last few years. Mr. Crosse succeeded him as magistrates' clerk and clerk to the Lord-Lieutenant, and Mr. Russell M. Riccard became Town-clerk of Southmolton on his retirement.

SOCIETIES AND INSTITUTIONS.

LIVERPOOL LAW STUDENTS' SOCIETY.

At a meeting of this Society held at the Law Library, on the 18th inst., Mr. T. E. Stephens in the chair, the subject for discussion was—"Does demurrage run while a vessel is under arrest by the Admiralty Court?" Mr. Hannan, solicitor, opened the debate in the affirmative, and was followed by Mr. Bowman, solicitor, in the negative, and Mr. Holden in the affirmative. Several of the other members present also took part in the debate. Mr. Hannan then replied, and upon the votes being taken the affirmative was declared carried by a majority of 8. This was the last meeting of the society for the session 1870—71.

LAW STUDENTS' DEBATING SOCIETY.

On Tuesday, the 23rd inst., the question discussed was No. 476, legal:—"A sells thirty shares in a limited liability company through B., his broker, to C., a jobber, who gets from *his* principal, and on the "name day" furnishes to B., the name of D. as transferee, and A. executes the transfer accordingly. The company is ordered to be wound up before registration of the transfer. A. is settled on the list of contributories and compelled to pay several calls. On enquiry he finds that D. is a minor. Has A. a right to recover against C. the calls he has paid?" Mr. Hargreaves opened the debate in the affirmative and Mr. G. P. Amos in the negative. The question was decided ultimately in the negative.

COURT PAPERS.

ADMIRALTY JURISDICTION.

At the Court at Windsor, the 16th May, 1871, present the Queen's Most Excellent Majesty in Council.

Whereas by the County Courts Admiralty Jurisdiction Act, 1868, it is, among other things, enacted, that if at any time after the passing of that Act it appears to her Majesty in Council, on the representation of the Lord Chancellor expedient that any County Court should have Admiralty jurisdiction, it shall be lawful for her Majesty, by order in Council, to appoint that court to have Admiralty jurisdiction accordingly and to assign to that court, as its district for Admiralty purposes, any part or parts of any one or more district or districts of County Courts; and further, that any such orders may be from time to time varied as seems expedient:

And whereas her Majesty was pleased, by an order in council of the 14th Jan. 1869, to order that certain County Courts should have Admiralty jurisdiction:

And whereas a representation has been made by the Lord Chancellor that it is expedient that the said order should be varied, and that the Whitechapel County Court of Middlesex should have Admiralty jurisdiction, and that the said court should have assigned to it, as its district for Admiralty purposes, the districts of the County Court of Essex, holden at Rochford, Brentwood, and Romford; of the County Court of Kent, holden at Dartford, Gravesend Greenwich, and Woolwich; of the Southwark County Court of Surrey, and of the Bow and Whitechapel County Courts of Middlesex; and that the City of London Court, appointed by such order to have Admiralty jurisdiction, should cease to have such jurisdiction:

Now, therefore, her Majesty having taken the said representation into consideration, is pleased, by and with the advice of Her Privy Council, to order and appoint, and it is hereby ordered and appointed, that from and after the thirtieth day of June one thousand eight hundred and seventy one, the Whitechapel County Court of Middlesex shall have Admiralty jurisdiction, and shall have assigned to it, as its district for Admiralty purposes, the districts of the County Court of Essex, holden at Rochford, Brentwood, and Romford; of the County Court of Kent, holden at Dartford, Gravesend, Greenwich, and Woolwich; of the Southwark County Court of Surrey, and of the Bow and Whitechapel County Courts of Middlesex; and that the City of London Court, appointed by such Order to have Admiralty jurisdiction shall cease to have such jurisdiction.

And her Majesty is further pleased, by and with the advice aforesaid, to order that the said Order of the fourteenth day of January, one thousand eight hundred and sixty nine, shall be varied or rescinded, so far as it varies from this Order.

EDMUND HARRISON.

BANKRUPTCY.

The report of the Controller in Bankruptcy presents an account of the business done in the year 1870, the first year under the new Act. The number of debtors adjudicated bankrupt was only 1,351; 319 in the London Court, and 1,032 in the County Courts of England and Wales; 1,162 traders, and 189 non-traders; 398 adjudicated on debtors' summons, 511 on declaration of inability, and 442 on other acts of bankruptcy. The total number in recent years, under the old system, has been nine or ten thousand. In the 1,351 bankruptcies of 1870 the liabilities were estimated at £7,932,520, and the assets were estimated (by the trustees) at £1,965,589; the assets realized in the year amounted to £1,110,449. The gross produce realized in 1869 was only £644,404. Almost all the bankruptcies of 1870 were still pending at the close of that year, but 105 had been annulled, most of them on the acceptance of a composition, and 18 had been closed. These 18 were in the County Courts, and were either estates speedily realized or small estates soon absorbed in costs. In nine cases the receipts by the trustees were only £502 in the aggregate, and after paying preferential creditors, and costs and expenses, there was no fund for a dividend. In the other nine the receipts amounted to £4,648; £416 went to preferential creditors, £417 in law charges (including court fees), and trustees' remuneration, £108 in incidental expenses, and £3,557 was paid in dividends ranging from 9d. to 8s. 5d. In the 105 estates annulled the trustees received £22,660, paid £3,553 in dividends, and had £15,830 of balances in hand; the law charges, court fees, trustees' remuneration, and incidental expenses amounted to £1,233. In the £1,228 estates pending the trustees received £1,082,639, paid £670,254 in dividends, and had £282,716 in hand; the law charges, &c. (as above), amounted to £40,322. Much of the receipts went to secured and preferential creditors, and for extraordinary outlay. There were 24 applications for discharges in the year, one was withheld and 23 granted—four where a 10s. dividend had been or might have been paid, and 19 on a special resolution of creditors in favour of the bankrupt. The return relating to cases of liquidation by arrangement shows 4,288 petitions filed, but only 2,035 resolutions of creditors registered; the gross amount of debts was £6,230,287 and of assets £2,235,191; there were 531 resolutions for discharge of the debtor. The return of compositions with creditors shows 1,616 resolutions registered; the gross amount of the debts was £3,293,622, and of the compositions £1,180,753. In 772 cases the composition did not exceed 5s. in the pound; in other 668 did not exceed 10s.; in 46 it was 20s. The totals of these bankruptcies, liquidations, and compositions in 1870 show £17,456,429 liabilities, and £5,381,533 assets. The taxing master taxed in the year 4,353 bills of costs, amounting to £83,294, from which he struck off £10,140. In bankruptcy there were 48 appeals presented to the Chief Judge in 1870, and he reversed or varied 19 judgments, and affirmed 14; there were 59 appeals to the Court of Appeal in Chancery, and 30 judgments were reversed or varied, and 20 affirmed.—*Times.*

PUBLIC COMPANIES.

GOVERNMENT FUNDS.

LAST QUOTATION, May 26, 1871.

From the Official List of the actual business transacted.

3 per Cent. Consols, 93¼	Annuities, April, '85
Ditto for Account, June 1, 93½	Do. (Red Sea T.) Aug. 1908
3 per Cent. Reduced 91⅞	Ex Bills, £1000, — per Ct. 5 p m
New 3 per Cent., 91⅞	Ditto, £500, Do — 5 p m
Do. 3¼ per Cent., Jan. '94	Ditto, £100 & £200, — 5 p m
Do. 2½ per Cent., Jan. '94	Bank of England Stock, 4½ per Ct. (last half-year) 236
Do. 5 per Cent., Jan. '73	Ditto for Account,
Annuities, Jan. '80—	

INDIAN GOVERNMENT SECURITIES.

India Stk., 10½ p Ct. Apr. '74, 209	Ind. Enf. Pr., 5 p C., Jan. '72 100
Ditto for Account	Ditto, 5½ per Cent., May, '79 107½
Ditto 5 per Cent., July, '80 112	Ditto Debentures, per Cent., April, '64 —
Ditto for Account,—	Do. Do., 5 per Cent., Aug. '73 103
Ditto 4 per Cent., Oct. '88 101	Do. Bonds, 4 per Ct., £1000 20 p m
Ditto, ditto, Certificates, —	Ditto, ditto, under £1000, 20 p m
Ditto Enfaced Ppr., 4 per Cent. 92¾	

RAILWAY STOCK.

	Railways.	Paid.	Closing prices
Stock	Bristol and Exeter	100	92½
Stock	Caledonian	100	93½
Stock	Glasgow and South-Western	100	115
Stock	Great Eastern Ordinary Stock	100	42
Stock	Do., East Anglian Stock, No. 3	100	7
Stock	Great Northern	100	127
Stock	Do., A Stock*	100	136½
Stock	Great Southern and Western of Ireland	100	100
Stock	Great Western—Original	100	95¾
Stock	Lancashire and Yorkshire	100	141½
Stock	London, Brighton, and South Coast	100	84½
Stock	London, Chatham, and Dover	100	17½
Stock	London and North-Western	100	133½
Stock	London and South-Western	100	97
Stock	Manchester, Sheffield, and Lincoln	100	53½
Stock	Metropolitan	100	77
Stock	Midland	100	130¾
Stock	Do., Birmingham and Derby	100	99
Stock	North British	100	39½
Stock	North London	100	118
Stock	North Staffordshire	100	64
Stock	South Devon	100	62½
Stock	South-Eastern	100	85½
Stock	Taff Vale	100	168

* A receives no dividend until 6 per cent. has been paid to B.

MONEY MARKET AND CITY INTELLIGENCE.

But little business was done during the first part of the week, and Wednesday was almost a blank day. Consols then became somewhat flat, upon the expectation that the restoration of order in Paris would be followed by the introduction of loans. Since then a slight rise has taken place, probably owing to spe-

culative purchases made upon the belief that the disasters with which the overthrow of the Commune had been attended, must involve the suspension for some time of any arrangement for loans in provision for payments to be made to Prussia. There is also a steady influx of money just now. The home railways are firm, on the whole, and the same may be said of foreign securities, except French.

The prospectus of the Great Western Silver Mining Company (Limited), capital £30,000 in 6,000 shares of £5 each has been issued. The company has been formed to purchase and work the mineral property known as the Great Western Silver Mine situated in the White Pine District, Nevada, United States.

Messrs. Barclay Brothers invite subscriptions for £20,000 fully paid shares in the South Aurora Silver Mining Company (Limited) at the price of £10, being £5 per share and £5 premium. The shares now issued are those originally issued to the vendors of the mine in part payment of the purchase-money, they will carry the quarterly dividend, at the rate of 20 per cent. last declared and payable next week. The mines are in the state of Nevada.

The prospectus of the Imperial Anglo-German Bank has been issued, Capital £450,000. Subscriptions for 7,500 shares of £30 or £225,000 nominal capital have been reserved for issue in London. Tha bank is established with the view of taking advantage of the extensive banking business now developing between Germany, England, and the East. The list of applications for shares closes this day for London and on Tuesday for the country.

WHEN JUDGES DIFFER.—A quarrel occurred between two judges on the 29th of April in the Hall of the Supreme Court at Havannah, and Judge Sitjar slapped the face of Judge Vasquez Quiepo. The result was that in the morning of May-day the two judges fought a duel with swords. Both received slight wounds; they then adjourned and took breakfast together. —*Civil Service Gazette.*

"Gentlemen of the jury," charged an American judge, "in this case counsel on both sides are unintelligible, the witnesses on both sides are incredible, and the plaintiff and defendant are both such bad characters, that to me it is indifferent which way you give a verdict."

ESTATE EXCHANGE REPORT.

AT THE MART.

May 16.—By Messrs. DRIVER.

A pair of freehold houses, Brockly-lane, Lewisham, with about one acre of land. Sold £500.

Freehold, No. 149, Church-road, Battersea, at 14 guineas per annum. Sold £200.

Freehold, Bolingbroke-road, Ground-rent of £30 per annum, secured on 14 houses. Sold £695.

Pimlico, No. 1, Bessborough-gardens, term 72 years, net rental £65. Sold £700.

Stockwell, Binfield Lodge, term 67 years, net rental £52 10s.; also an improved ground rent of £11 per annum, receivable on death of a lady aged 78 years. Sold £820.

May 17.—By Messrs. EDWIN FOX & BOUSFIELD.

Nos. 118 and 120, Hope-street, term 48 years, net rental £20. Sold £100.

Long leasehold, Nos. 5, and 7, New Wood-street, net rental £13 18s. Sold £80.

Nos. 9 and 11, adjoining, net rental £22. Sold £120.

The cutter yacht Amazon, copper fastened, with fittings. Sold £420.

New River Company. Four £100 new shares (£20 paid per share)—sold for £61 per share; four ditto—sold for £63 per share; and another four—sold for £66 per share.

BIRTHS, MARRIAGES, AND DEATHS.

BIRTHS.

ATHAWES—On May 23, at Bartonville, Beckenham, Kent, the wife of Edward J. Athawes, Esq., barrister-at-law, of a daughter.

BRANDON—On May 21, at Oakbrook, Hammersmith, the wife of Gabriel S. Brandon, Esq., of a daughter.

BURRELL—On May 23, at Wimbledon, the wife of Charles Burrell, Esq., barrister-at-law, of a daughter.

CROWTHER—On May 23, at 94, Stockwell-park-road, the wife of Alfred H. Crowther, solicitor, of a son.

FERGUSON—On May 16, at Malabar Hill, Bombay, the wife of T. R. Ferguson, Esq., barrister-at-law, prematurely, of a son, who lived but a few hours.

SUTHERLAND—On May 23, at 55, Tavistock-crescent, Westbourne-park, London, the wife of David Sutherland, Esq., barrister-at-law, of Calcutta, of a daughter.

MARRIAGES.

BROS—WILKINSON—On May 23, at Christ Church, Lancaster-gate, James R. W. Bros, Esq., barrister-at-law, to Emily Spearman, younger daughter of the late Anthony Wilkinson, of Coxhoe, county Durham, Esq.

DEATHS.

BROTHERTON—On May 17, at his residence, Highgate, James Brotherton, Esq., of the Middle Temple, barrister-at-law, Receiver-General of H.M.'s Inland Revenue, aged 56.

LONDON GAZETTES.

Professional Partnerships Dissolved.

FRIDAY, May 19, 1871.

Batt, Hy, & Hy Edwd Batt, Dowgate-hill, Attorneys and Solicitors. May 8.

Winding-up of Joint Stock Companies.

TUESDAY, May 23, 1871.

UNLIMITED IN CHANCERY.

West Bromwich and Walsall Railway Company.—Petition for winding up, presented May 22, directed to be heard before Vice Chancellor Wickens on June 2. Baxter & Co, Victoria-st, Westminster, solicitors for the petitioner.

Creditors under 22 & 23 Vict cap. 35.

Last Day of Claim.

FRIDAY, May 19, 1871.

Armstrong, Wm, Alverstoke, Hants, Captain. July 1. Hallett, Lincoln's inn-fields

Ashby, Hy, Watford, Hertford, Gent. June 24. Mote, Warwick-ct Gray's-inn

Ashworth, Mary Ann, Pendleton, Lancashire, Widow. Aug 1. Slater & Co, Manch

Ashworth, Thos, Pendleton, Lancashire, Manufacturer. Aug 1. Slater & Co, Manch

Bertram, Geo, Aberford, York, Labourer. June 8. Bickers, Tadcaster

Bingley, Martha Mesnard, Ouslethwaite, York, Widow. June 18. Uptons & Co, Austin-friars

Bridges, Eliz, Newark-upon-Trent, Nottingham, Widow. June 24. Ashley, Newark-upon-Trent

Collin, Thos, Leicester, Gent. June 20. Toller, Leicester

Eckersley, Ellen, Southport, Lancashire, Widow. July 10. Leigh & Ellis, Wigan

Edney, Geo, Waterloo-rd, Tobacconist. June 17. Vallance & Vallance, Essex st, Strand

Giles, Hy Horatio, Bristol, Innkeeper. June 24. Hobbs & Peters, Bristol

Hetcher, Thos, Wigan, Lancashire, Tailor. July 10. Leigh & Ellis, Wigan

Ind, Edmund Vipan, Romford, Essex, Esq. July 1. Clifton, Romford

Irvine, Christina Chas, Egham, Surrey, Spinster. July 1. Gordon, Old Broad-st

Johnson, Peter Halcrow, Lpool, Master Mariner. June 30. Whittey & Maddock, Lpool

Jones, Saml, Yardley, Worcester, Gent. July 1. Bridges & Clark, Birm

Mant, Thos, Reading, Berks, Dairyman. June 1. Titchener, Chichester

Russell, Thos, Birm. July 1. Bridges & Clarke, Birm

Walker, Jas Ouchterlony, Cambridge-sq, Hyde-pk, Esq. June 30. Lyne & Holman, Austin Friars

Watkins, Rebecca, Westbourne-pk-rd, Spinster. June 30. Cunliffe & Beaumont, Chancery-lane

Woollam, Rev Wm, Leeds. July 31. Simpson, Leeds

TUESDAY, May 23, 1871.

Bell, Adam, Manch, Solicitor. July 1. Grundy & Coulson, Manch

Bray, Richd, Choriton-upon-Medlock, Manch, Stone Mason. June 24. Hewitt, Manch

Bundey, Jas, Rowledge nr Farnham, Surrey, Builder. July 1. Dunster, Henrietta-st, Cavendish-sq

Buris, Jas, Maunden, Essex, Farmer. Aug 1. Taylor, Bishop's Stortford

Clark, Wm, Slough, Bucks. July 17. Barrett, Slough

Colt, Geo Nathaniel, Bishopwood House Highgate, Barrister-at-law. July 1. Dunster, Henrietta-st, Cavendish-sq

Fonblanque, Jane Catherine, Weymouth, Dorset, Widow. July 1. Vallance & Vallance, Essex-st, Strand

Evans, Alfred Smith, Edgbaston, Warwick, Esq. July 25. Ingleby & Co, Birm

Evans, Brooke, Edgbaston, nr Birm, Esq. July 25. Ingleby & Co, Birm

Evans, Douglas, Edgbaston nr Birm, Metal Refiner. July 25. Ingleby & Co, Birm

Fitch, Robt, Thaxted, Essex, Maltster. Aug 1. Taylor, Bishop's Stortford

Floyd, Mary, Sands in Holmfirth, York, Widow. June 1. Learoyd & Learoyd, Huddersfield

Gifford, John, High Beach, Essex, Esq. June 30. Sharp, Gresham House, Old Broad st

Hawkins, Geo Wm, Mortimer-st, Cavendish-sq, Coffee House Keeper. July 1. Miller, Copthall-ct

Jones, Edwd, Newport, Salop, Ironmonger. July 1. Heane, Newport

Lawrence, Fras, Alverstoke, Southampton, Licensed Victualler. June 19. Johnson & Raper, Chichester

Lawson, John Smelt, Lpool, Wine & Spirit Merchant. June 20. Atkinson & Co, Lpool
Lloyd, Wm. Adfa, Llanwyddelan, Montgomery. June 30. Howell & Co, Welshpool
Lockett, Joseph, Duncon, Argyll, Gent. July 31. Bagshaw & Wigglesworth, Manch
Moody, Robt, Reading, Berks, Gent. Aug 1. Watts, Yeovil
Norman, Fras, Tunbridge Wells, Kent, Esq. Aug 31. Brooks, Mistley
Podmore, Catherine, Chetwynd End, Newport, Salop. July 1, Heane, Newport
Stentiford, Jas, Ipplepen, Devon, Yeoman. July 1. Whidborne & Tozer, Teignmouth
Stokes, Eliz, Milton Earnest, Bedford. July 20. Jessopp, Bedford
Wallis, Walter White, Lewisham, Gent. July 1. Wragg, Gt St Helen's
Whiting, Hy. Birm, Gent. June 19. Williams, Birm
Woodall, Thos, Silloth, Cumberland, Ship Chandler. June 16. Wannop, Carlisle

Bankrupts.

FRIDAY, May 19, 1871.

Under the Bankruptcy Act, 1869.

Creditors must forward their proofs of debts to the Registrar.

To Surrender in London.

G Iffths, Saml, Tower-st, London-fields. Pet May 18. Hazlitt. June 2 at 11
Heeley, Benj, East India-avenue, Leadenhall-st, East India Broker. Pet May 12. Hazlitt. May 31 at 12

To Surrender in the Country.

Anderson, Geo, Surfleet, Lincoln, Blacksmith. Pet May 15. Gaches. Peterborough, June 3 at 11
Cottam, Edwd, Blackburn, Lancashire, Reed Maker. Pet May 15. Bolton. Blackburn, June 2 at 10.30
Ensor, Fras, West Bromwich, Stafford, Engineer. Pet May 18. Watson. Oldbury, June 12 at 11
Hunby, Wm, Downton, Wilts, Coal Merchant. Pet May 15. Wilson. Salisbury, June 1 at 11
Knight, John, Leicester, Beerhouse Keeper. Pet May 17. Ingram. Leicester, June 5 at 10
Lambert, Edwd, Leeds, Boot Dealer. Pet April 5. Marshall. Leeds, June 8 at 11
Maxfield, Metcalfe, Grassington, York, Innkeeper. Pet May 16. Robinson. Bradford, June 13 at 9
Metcalfe, Jas, Barton Mills, Suffolk, Publican. Pet May 15. Collins. Bury St Edmund's, May 30 at 11
Mills, Mary, Manch, Printer. Pet May 16. Kay. Manch, June 8 at 12
Nevill, Edwd, Wheaton Aston, Stafford, Innkeeper. Pet May 17. Brown. Wolverhampton, June 2 at 12
Steed, Thos, jun, Brandon, Suffolk, Wine Merchant. Pet May 17. Palmer. Norwich, May 31 at 1
Stevens, Wm Dixon, Kingston upon-Hull, Joiner. Pet May 17. Phillips. Kingston-upon-Hull, May 29 at 11
Wintercoban, Chas, Childer Thornton, Cheshire, Licensed Victualler. Pet May 16. Wason. Birkenhead, May 31 at 10

TUESDAY, May 23, 1871.

Under the Bankruptcy Act, 1869.

Creditors must forward their proofs of debts to the Registrar.

To Surrender in London.

Bayley, Fras Sophia, Conduit-st, Regent-st, no occupation. Pet May 10. Hazlitt. June 9 at 11

To Surrender in the Country.

Asbury, Edwin, Birm, Retail Brewer. Pet May 18. Chauntler. Birm, June 12 at 12
Barron, Chas, Lpool, Broker. Pet May 18. Hime. Lpool, June 6 at 2
Fairey, Jas, Middlesborough, York, Jeweller. Pet May 19. Crosby. Stockton-on-Tees, June 5 at 11
Hetherington, Joseph, Workington, Cumberland, Grocer. Pet May 18. Waugh. Cockermouth, June 12 at 2
Jones, Richd, Llansannan, Denbigh, Draper. Pet May 18. Jones. Bangor, June 3 at 2
Jowsey, John, Middlesborough, York, Carrier. Pet May 18. Crosby. Stockton-on-Tees, June 9 at 11
Levie, Joseph Bernard, & John Bernard Levie, Manch, Clothiers. Pet May 18. Kay. Manch, May 15 at 9.30
Miller, Philip Robertson, Birm, Hay Factor. Pet May 19. Chauntler. Birm, June 12 at 12
Page, Saml, Upper Bangor, Carnarvon, Yeast Dealer. Pet May 19. Jones. Bangor, June 6 at 2

BANKRUPTCIES ANNULLED.

FRIDAY, May 19, 1871.

Henwood, Wm Hy, Eastdown-pk, Lewisham, Tug Owner.

Liquidation by Arrangement.

FIRST MEETINGS OF CREDITORS.

FRIDAY, May 19, 1871.

Adams, Edwin, Park st, Islington, Commercial Traveller. June 1 at 3, at offices of Herbert & Co, Gresham bldgs, Guildhall
Allan, Jas Frith, Sheffield, Britannia Metal Manufacturer. May 31 at 3, at offices of Vickers & Son, Bank st, Sheffield
Andrews, Thos Chas, Union st, Woolwich, China Dealer. June 5 at 2, at offices of Perry, Guildhall chambers, Basinghall st
Ansell, Arthur John Jordan, Hendale, Somerset, Commercial Traveller. June 3 at 12, at offices of Reed & Cook, Paul st, Taunton
Arnatt, Josiah, Oxford, Confectioner. June 1 at 12, at office of Morford & Taylor, St Michael's chambers, Ship st, Oxford
Baker, John, Monmouth, Baker. May 31 at 1, at offices of Williams, Whitecross st, Monmouth
Barlow Geo Chas, West Bromwich, Stafford, Coach Builder. May 31 at 11, at offices of Topham, High st, West Bromwich
Barnes, Hy & Jas Beale, Litchfield st, Soho, Timber Merchants. June 2 at 2, at 156 York rd, Lambeth. Barnard
Belton, Thos, Nicholas lane, King William st, Auctioneer. June 7 at 12, at the Masons' hall Tavern, Masons' avenue. Godfrey
Bennett, Jas, Bristol, Builder. May 30 at 12, at offices of Hancock & Co, John st, Bristol
Bland, David, Sunfields, Blackheath. May 31 at 12, at office of Mote, Walbrook
Bristow, Wm Edwd, Navarino rd, Dalston, Warehouseman. June 2 at 12, at offices of Beesley, Bedford row. Davis, Bedford row
Buckingham, Ely, Oxford, Box Manufacturer. June 1 at 2, at office of Galpin, New rd, Oxford
Casson, Chas. Hy, Manch, Wholesale Confectioner. June 6 at 11, at offices of Mann, Marsden st, Manch
Clay, Joseph, Radcliffe, Lancashire, Clogger. May 31 at 3, at the Royal Hotel, Bury. Watson, Bury
Clayton, Leonard, Laurence Clayton & Jas Smith, Boiler Makers. June 1 at 12, at Sutherland's Great Northern Hotel, Wellington st, Leeds. Spirett
Coulthart, John, Lpool, Draper. June 1 at 3, at office of Etty, Lord st, Lpool
Crawley, John, jun, Luton, Bedford, Butcher. June 1 at 11, at the George Hotel, Luton. Shepherd, Luton
Cregeen, Robt Edwd, Dorking, Surrey, Tailor. June 1 at 1, at offices of Poncione, jun, Moorgate st
Crome, Saml, Hautbois, Norfolk, Butcher. June 3 at 11, at offices of Fosters & Co, Bank pl, Norwich
Davies, John, Llanstephan, Carmarthen, Grocer. May 13 at 1, at office of Lloyd, Carmarthen
Davison, Saml, Tewkesbury, Gloucester, Butcher. May 30 at 12.30, at the Swan Hotel, Tewkesbury. Taynton
Downer, Edmd, Landport, Hants, Draper. May 23 at 3, at office of King, Union st, Portsea
Edson Anthony, Barnsley, York, Steam Power Loom Weaver. June 2 at 3, at offices of Tyas & Harrison, Regent st, Barnsley
Elsom, Martin Thos, Nottingham, Leather Seller. May 31 at 12, at office of Shelton, Britannia chambers, Pelham st, Nottingham
Evans, Wm, Rowley Regis, Stafford, Coachbuilder. May 31 at 11, at offices of Shakespeare, Church st, Oldbury
Fantoni, Mariano, Manch, Merchant. June 9 at 3, at offices of Kearsley, Brazennose st, Manch
Field, Hy, Gloucester ter, Kensington, Ironmonger. June 2 at 3, at 16 Gloucester ter, Kensington. Edwards, Bush lane, Cannon st
Francis, Chas Larkin & Hy Francis, Gracechurch st, Cement Manufacturers. June 8 at 12, at offices of Tingle, Cannon st. Plews & Irvine, Mark lane
Freakley, John, Wolverhampton, Stafford, Blacking Manufacturer. May 29 at 11, at offices of Creswell, Bilston st, Wolverhampton
German, Jas, Southsea, Hants, Grocer. May 24 at 3, at offices of King, Union st, Portsea
Gladwin, Ann, Warwick st, Regent st, Tailor. June 2 at 12, at office of Nicholson Gresham st. Parker & Co
Guthrie, John, Leicester, Shoe Manufacturer. June 5 at 12, at office of Haxby, Belvoir st, Leicester
Hammond, Eliz Mary, Red Cross st, Milliner. June 3 at 12, at office of Mardon, Newgate st
Harper, John & Matthew Tidesley, Willenhall, Stafford. Malleable Iron Founders. June 8 at 12, at the Queen's Hotel, Birm. Slater, Darlaston
Hewitt, Francis Hy, jun, Stock Green, Worcester, Licensed Victualler. June 1 at 12, at office of Hodgson & Sons, Waterloo st, Birm
Hewlett, Jas, Linley, Salop, no occupation. May 31 at 2, at office of Clarke, Swan hill, Shrewsbury
Holt, Wm, Leeds, Organ Builder. June 1 at 1, at offices of Rooke & Midgley, Bank bldgs, Boar lane, Leeds
Inwards, Jas. Bartholomew villas, Kentish town, Clerk. June 7 at 12, at offices of Cattlin, Basinghall st
Jones, Llewelyn Foulkes, Bagillt, Flint, Chemist. June 5 at 12, at offices of Taylor, Pepper st, Chester
Lench, John, Daventry, Northampton, Carrier. May 25 at 3, at office of Barrett, Bell yd, Doctors'-commons
Littlewood, John, Halifax, York, Tobacco Manufacturer. June 5 at 11, at 10 Cheapside, Halifax. Holroyde & Smith, Halifax
Lorraine, Pickering Rippon, Lpool, Grocer. May 31 at 3, at office of Harris, Union ct, Castle st, Lpool
Luff, Geo, Titchfield, Hants, Builder. May 30 at 12, at the Institution, Fareham. Goble, Fareham
Malcolm, John, Halifax, York, Draper. May 31 at 12, at offices of Chesney, Dewhirsts bldgs, Manchester rd, Bradford. Terry & Robinson, Bradford
Mason, John Wm, Manch, Printer. June 6 at 4, at office of Addleshaw, King st, Manch
Mills, Emanuel, Nympsfield, Gloucester, Baker. June 2 at 4, at offices of Witchell, Lansdown, Stroud
Milton, Geo, Clifton, Bristol, Hatter. June 1 at 3, at offices of Thick, Small st, Bristol
Myers, Saul, Vale ter, Sutherland gardens, Maida Vale, Commission Merchant. June 5 at 3, at offices of Birchall & Rogers, Southampton bldgs, Chancery lane. Harrison, Furnival's inn
Normanton, Benj, Ripponden, York, Beerseller. June 2 at 10, at the Royal Hotel, Sowerby Bridge. Roberts & Sons, Rochdale
Pearson, Wm, Brewood, Stafford, Schoolmaster. May 31 at 12, at offices of Smith, Old Church yd, Wolverhampton
Peat, John Wm, Wales, York, General Dealer. May 30 at 1, at office of Broomhead & Co, Bank chambers, George st, Sheffield
Preece, Geo, Ledbury, Hereford, Innkeeper. May 31 at 11, at offices of Piper, Court house, Ledbury
Prout, Hy Ebenezer, Plymouth, Devon, Music Seller. June 5 at 3, at 26 Maddox st, Regent st. Greenway & Adams, Plymouth
Roberts, Richd Jones, Carnarvon, Pork Butcher. June 8 at 2, at the Castle Hotel, Bangor. Jones, Carnarvon
Shaw, John, Hunsbury hill, Northampton, Farmer. June 1 at 3, at offices of Jeffery & Son, Newland, Northampton
Slack, Wm, Quarnford, Stafford, Farmer. May 30 at 11, at the Bull's Head Hotel, Market st, Macclesfield
Smith, Thos, Bradford, York, Waste Dealer. June 1 at 10, at offices of Hargreaves, Market st, Bradford
Snowden, Wm, Coal Exchange, Coal Merchant. June 1 at 2, at office of Dobie, Basinghall st
Stead, Saml, New Wortley, York, Stay Manufacturer. May 31 at 11, at offices of Pullan, Bank chambers, Park row, Leeds

Stoner, John Wilkinson, Leeds, Innkeeper. June 5 at 3, at offices of Upton, East parade, Leeds
Street, Geo, Birm, Licensed Victualler. June 1 at 12, at office of Cottrell, Newhall st, Birm
Sulley, John, sen, Market Harborough, Leicester, Bootmaker. June 1 at 11, at office of Cave, Sheep market, Market Harborough
Thomson, Andrew, Walsall, Stafford, Haberdasher. May 30 at 2, at offices of Glover, Park st, Walsall
Warrener, John, jun, East Grinstead, Fishmonger. June 9 at 3, at office of Marshall, Lincoln's-inn-fields
Webster, John, Bunhill, Working Cutler. May 31 at 12, at office of Beesley, Bedford row. Davis, Bedford row
Wild, Jas, Priory st, Camden town, Builder. May 31 at 3, at offices of Yeo & Warner, Hart st, Bloomsbury sq
Williams, David, St James's st, Islington, and John Jones, Sandringham rd, Kingsland, Builders. June 2 at 2, at offices of Dalton & Jessett, St Clement's house, Clement's lane
Wood, Thos Jas, London rd, Lower Clapton, Builder. May 31 at 2, at office of Banes, Basinghall st

TUESDAY, May 23, 1871

Adshead, Jas, Walsall, Stafford, Plasterer. June 7 at 3, at offices of of Crump, Bridge st, Walsall
Allwood, John, Devizes, Wilts, Draper. May 31 at 2, at offices of Williams & Co, Exchange, Bristol. Press & Inskip, Bristol
Aspinall, Wm, Lower Bebington, Chester. June 2 at 3, at office of Downham, Market st, Birkenhead
Atkins, Wm, Lpool, Hosier. June 6 at 2, at office of Gower, Cheapside, London. Tyrer & Co, Lpool
Ayre, Jas, Sunderland, Durham, Shipowner. June 5 at 12, at office of Moore, John st, Sunderland
Baker, Richd Dearle, Cambridge town, Frimley, Surrey, Butcher. June 5 at 2, at the Duke of York, York town, Frimley. Eve, Aldershot
Bamford, Thos, Rochdale, Lancashire, Shopkeeper. June 5 at 3, at office of Strandring, The Butts, Rochdale
Barnett, John, Saint Day, Cornwall, Draper. June 3 at 3, at the Public rooms, Truro. Hodge & Co, Truro
Bateman, Fergus Jas, Bristol, Builder. June 6 at 12, at offices of Murly & Sons, Old Post Office chambers, Corn st, Bristol
Batley, Jas Lovell, Hoxton st, Hoxton, Corn Merchant. June 13 at 3, at offices of Buffen & Chandler, Coleman st. Ashurst & Co, Old Jewry
Beats, David, Dudley, Worcester, Tailor. June 7 at 11, at offices of Stokes, Priory st, Dudley.
Bickerstaff, Jas, Manch, Porter. June 7 at 12, at offices of Taylor, St James's chambers, South King st, Manch. Kearsley, Manch
Bridgwood, Sampson, Longton, Stafford. Licensed Victualler. June 7 at 2.30, at offices of Stevenson & Davies, Brook st, Stoke-upon-Trent
Burgess, Wm Valentine, Noble st, Straw Hat Manufacturer. June 12 at 3, at offices of Lovering & Minton, Gresham st. Scie & Co, Aldermanbury
Cass, Wm, Northampton, Shopkeeper. June 9 at 11, at offices of Jeffery & Son, Newland, Northampton
Chidlow, Thos, Walsall, Stafford, Licensed Victualler. June 7 at 11, at the Bradford Arms inn, Lower Rushall st, Walsall. Adams, Walsall
Collinge, Jas, Manch, Grocer. June 9 at 4, at offices of Addleshaw, King st, Manch
Cowper, Jas, Bittlesea Farm, Wilts, Farmer. June 3 at 11, at the Bear inn, Chippenham. Pinniger & Wood, Chippenham
Dando, Horace, Bromley, Kent, Clerk. June 5 at 2, at office of Walls, Walbrook
Davies, Timothy, Merthyr Tydfil, Glamorgan, Butcher. June 5 at 11, at the County Court offices, Victoria st, Methyr Tydfil. Lewis
Foster, Wm, Huddersfield, York, Draper. June 5 at 11, at offices of Learoyd, Buxton rd, Huddersfield
Gray, Edwd, Sheffield, Steel Refiner. June 2 at 12, at the Cutlers' hall, Sheffield. Smith & Hinde, Sheffield
Griffiths, Evan & John Francis Jones, Warwick st, Pimlico, Drapers. June 2 at 3, at offices of Read & Co, Milk st. Mason
Handley, Wm, Newnham, Cambridge, Bricklayer. June 9 at 11, at office of Ellison, Alexandra st, Petty Cury
Hardy, Thos, Wolverhampton, Stafford, Grocer. June 6 at 11, at offices of Stratton, Queen st, Wolverhampton
Hargreaves, Hy, Huddersfield, York, Whitesmith. June 5 at 11, at offices of Sykes, New st, Huddersfield
Harwood, Josiah, Stockport, Cheshire, Accountant. June 2 at 2, at the White Lion Hotel, Broad st, Bristol. Johnston, Stockport
Hicks, Richd Wm, Deal, Kent, Tailor. June 15 at 11, at the Royal Exchange Hotel, Deal. Drew, Deal
Hoare, Hy, Chertsey, Surrey, Coal Merchant. June 14 at 12, at office of Haynes, Serle st, Lincoln's-inn
Hocking, Wm, Luton, Bedford, Straw Hat Manufacturer. June 6 at 12, at offices of Scargill, King st, Luton
Hogg, Wm, Skelton, York, Grocer. June 3 at 10, at offices of Crumbie, Stonegate
Hosking, John Woolcock, Truro, Cornwall, Printer. June 8 at 11, at offices of Carlyon, & Paull, Quay st, Truro
Jones, Rees, Cardiff, Glamorgan, Carpenter. June 6 at 11, at offices of Morgan, High st, Cardiff
Knight, Jas, Warminster, Wilts, Publican. June 5 at 1, at the Castle inn, Warminster. McCarthy, Frome
Knight, John, Landport, Hants, Boot Manufacturer. June 5 at 11, at office of Walker, Union st, Portsea
Lewis, David, Brynmawr, Brecon, Grocer. June 7 at 2, at the King's Head Hotel, Newport. Harris, Tredegar
Lewis, Fredk, Wolverhampton, Stafford, Oil Merchant. June 2 at 11, at the Great Western Hotel, Monmouth st, Snow hill, Birm. Thurstans & Cartwright, Wolverhampton
Lewis, Hy, High green, Ecclesfield, York, Miner. June 6 at 1, at the King's Head Hotel, Change alley, Sheffield. Willis, Rotherham
Lister, John Hall, Newcastle-upon-Tyne, Boot Dealer. June 5 at 12, at offices of Hoyle & Co, Mosley st, Newcastle-upon-Tyne
Lister, Saml, Morley, York, Cloth Manufacturer. June 5 at 11, at offices of Middleton, Park row, Leeds
Mellwaine, Wm John, Whitehaven, Cumberland, Baker. June 6 at 11, at office of Atter, New Lowther st, Whitehaven
Mills, Wm, Birm, no occupation. June 7 at 2, at offices of Lowe, Temple st, Birm
Nussey, Wm, Lane End, Birstal, York, Grocer. June 8 at 11, at offices of Pullan, Bank chambers, Park row, Leeds
Payne, Philip, Worcester, Manufacturer of Potted Beef. June 7 at 3, at offices of Tree, Broad st, Worcester
Plackett, Thos & Benj Alf Moody, St Bride's avenue, Fleet st, Printers. June 15 at 2, at offices of Johnstone & Co, Coleman st bldgs, Moorgate st. Peckham, Gt Knight Rider st, Doctors' commons
Powell, Geo, West Bromwich, Stafford, Chartermaster. June 5 at 3, at offices of Sheldon, Lower High st, Wednesbury
Quick, Geo, Leadenhall st, Ship Broker. June 2 at 1, at offices of Newbon, Wardrobe pl, Doctors' commons
Reany, Wm, Sheffield, Edge Tool Manufacturer. June 5 at 10, at offices of Tasker & Sons, North Church st, Sheffield. Mellor, Sheffield
Redfern, Edwd, Manch, Coal Merchant. June 14 at 11, at offices of Mann, Marsden st, Manch
Russell, Geo, Mitcham, Surrey, Carrier's Clerk. June 3 at 12, at offices of Harrison, Furnival's inn
Simmons, Abraham, Tavistock mews, Tavistock sq, Coach Builder. June 1 at 3, at the Bell Coffee house, Euston rd, King cross. Rigby, Botolph lane
Sivell, Hy Simeon, Bristol, Grocer. June 2 at 12, at offices of Parsons, Nicholas st, Bristol. Beckingham
Smith, Wm, St Swithin, Norwich, Ironmonger. June 1 at 11, at office of Winter & Francis, St Giles' st, Norwich
Suttaby, Constantine Foster, Melton Mowbray, Leicester, Saddler. June 2 at 1, at office of Owston, Friar lane, Leicester
Swonnell, Edmd, Oakfield ter, Denman rd, Camberwell, Dealer of Isinglass. June 9 at 3, at office of Parkes, Beaufort bldgs, Strand
Sykes, Squire, Lane Head, Brighouse, York, Innkeeper. June 10 at 10, at the Sun Hotel, Lightcliffe, Halifax
Tatam, Saml Harpham, Kingston-upon-Hull, Boot Maker. June 1 at 2, at offices of Summers, Manor st, Kingston-upon-Hull
Vernon, Wm, Burslem, Stafford, Attorney's Clerk. June 3 at 4, at offices of Hollinshead, Market st, Tunstall
Viner, John Joseph, Brighton, Sussex, Plumber. June 7 at 12, at offices of Clennell, Gt Knight Rider st, Doctors' commons. Brandreth, Brighton
Wardle, John, Middlesborough, York, Earthenware Dealer. June 5 at 3, at offices of Braithwaite, Albert rd, Middlesborough. Bainbridge, Middlesborough
Weston, Thos Bond, Tranmere, Chester, Baker. June 5 at 2, at office of Downham, Birkenhead
Williamson, Jas, Kingston-upon-Hull, Tailor. June 2 at 12, at the Trevellyan Hotel, Leeds. Elton
Wilson, John Jorden, Whitehaven, Cumberland, Tinsmith. June 3 at 10, at office of Mason, Duke st, Whitehaven
Wing, Wm, Folkingham, Lincoln, Grocer. June 7 at 12, at the Red Lion Hotel, Grantham. Deacon, Peterborough
Woods, John, Lpool, out of business. June 3 at 11, at office of Culshaw, Castle st, Lpool
Woodward, John, Sheffield, Builder. June 6 at 2, at office of Ibbotson, Change alley, Sheffield
Yates, Geo, Derby, Grocer. June 6 at 11, at offices of Harrison & Co, Becket Well lane, Derby. Moody, Derby